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Vol. II.—Supplementary Byelaws, Rules, and Regulations.

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12, BELL YARD, TEMPLE BAR, LONDON, W.C.

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UNDER

*THE PUBLIC HEALTH ACT, 1875, AND THE PUBLIC HEALTH
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With Alternative and Additional Clauses,

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SIX SERIES,

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PREFACE.

THE first issue of the Local Government Board's Model Byelaws with respect to Nuisances and New Streets and Buildings took place in July, 1877. A *Circular Letter*, dated the 25th July, 1877, was issued by the Board with the series in question, in which they stated that "in the preparation of these forms the Board have not hesitated to seek assistance from advisers whose practical experience rendered their criticism of the proposed clauses of especial value." The Circular also referred to the care which had been taken by the Board, in preparing the model series, to exclude everything which might render the byelaws open to objection on legal grounds; and the fact that a period of twenty-five years elapsed after this, before any general revision of either of the series mentioned was undertaken goes far to show that, notwithstanding some defects, the model clauses, in the main, have justified the claims thus made on their behalf.

Both of these series, however, have at different times been shown to need modifications or additions in order to adapt them to the needs of different localities—to nuisances of a special character, or to streets and buildings to be constructed or erected under conditions not specially provided for in the original series. The number and variety of the alternative and additional clauses suggested in our "Model Byelaws"* are a sufficient witness to the need of the revision which these series have at length received at the hands of the Local Government Board; and a careful perusal of the revised series will show that the revision, although not, perhaps, in all respects as extensive as some critics of the original series would have wished, has been undertaken with judgment, and with an evident desire to meet the requirements of modern practice. The number and complexity of the points to which a consideration of the revised series gives rise can hardly be indicated by any general remarks on the series. Many of the byelaws have been altered almost beyond recognition,

* London : Butterworth & Co. and Shaw & Sons, 1899.

and in many cases the full effect of the alterations made is not immediately apparent without a very intimate acquaintance not only with the working of the original models, but also with the criticisms from time to time directed upon them by architects and others directly interested in the subject.* Accordingly, the whole of those portions of "Model Byelaws" which relate to Nuisances and to New Streets and Buildings have been revised, and brought up to date—both as regards the model series issued by the Local Government Board, and also as respects the additional series which were suggested by us for the use of local authorities desiring to make byelaws under the Public Health Acts Amendment Act, 1890, etc.

Where it seemed necessary, we have added, as we believe, to the usefulness of the present volume, not only by incorporating numerous references to decisions of the courts, which have been given since the publication of "Model Byelaws," but by offering for the consideration of local authorities, model forms of byelaws, or notes on model forms of byelaws relating to matters not dealt with in the original work. Such are the clauses as to—(i.) the Drainage of Existing Buildings, and (ii.) New Buildings (including buildings of wood, and other materials not "hard and incombustible") in Rural Districts, which will be found respectively on pp. 226—230, and 177—198. In short, no pains have been spared to make the volume, as regards the subjects dealt with, complete in every detail, up to the moment of going to press; and we may be permitted to hope that the volume may meet with the same flattering reception which has been accorded to "Model Byelaws" itself.

In conclusion, we have to acknowledge with many thanks the assistance which we have received from Mr. Brook Taylor Kitchin, F.R.I.B.A., and other gentlemen whose great experience in byelaw administration has been of the utmost value in the completion of this work.

W. M.
P. H.

9, KING'S BENCH WALK,
TEMPLE, E.C.
May, 1904.

* The brief addendum to the Memorandum of the Local Government Board, headed "Revise of 1904," which will be found on p. 41, hardly conveys much idea of the extent of the revision which their series as to New Streets and Buildings has undergone.

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CORRIGENDA.



Page 42, at end of first note: *For* "pp. 172 to 196," *read* "pp. 174 to 198."

„ 43, in first note:	„ "pp. 202 to 223,"	„ "pp. 204 to 225."
„ 43, „	„ "pp. 73 ... 219,"	„ "pp. 73 ... 221."
„ 44, „	„ "pp. 224 to 229,"	„ "pp. 226 to 230."
„ 74, at end of first note:	„ "pp. 202 to 223,"	„ "pp. 204 to 225."
„ 81, in last note:	„ "p. 179,"	„ "p. 181."
„ 82, in first line:	„ "p. 178,"	„ "p. 180."

MODEL BYELAWS

AS TO

NUISANCES AND NEW STREETS AND BUILDINGS.



INTRODUCTION.

INTRODUCTION.

PART I.

BYELAWS with respect to Nuisances (Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 44), and New Streets and Buildings (38 & 39 Vict. c. 55, s. 157), can be made by the council of any borough or other urban district; and additional byelaws as to Nuisances and New Streets and Buildings, such as are suggested on pp. 33 to 36 and 204 to 225 of the present work (see Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), s. 23), may be made by any such council if they have duly adopted Part III. of the Act of 1890. The council of any urban district are also empowered, after adopting Part III. of the Act of 1890, to make byelaws with respect to the drainage of existing buildings (see pp. 226 to 230).

Power to
make
byelaws.

In the case of a rural district council, the following statement will be useful as showing the extent to which the model byelaws contained in this volume can legally be adopted by the authority.

First, the rural district council may adopt Part III. of the Public Health Acts Amendment Act, 1890, so far as it can be adopted by a rural authority. They will thus obtain power to make byelaws as to certain matters dealt with in section 157 of the Public Health Act, 1875, and some additional matters specified in section 23 (3) and (4) of the Act of 1890. If the council wish to make byelaws on other subjects mentioned in section 157 of the Act of 1875, and section 23 of the Act of 1890, they must be invested with the necessary "urban powers" (see section 276 of the Act of 1875, and section 5 of the later Act). This is also the case if the council wish to make byelaws as to nuisances (Public Health Act, 1875, s. 44; Public Health Acts Amendment Act, 1890, s. 26 (1)).

The following instructions have been given by the Local Government Board respecting applications to be made to them for orders conferring urban powers:—

Applications
for urban
powers.

"If a rural district council desire to obtain urban powers by

an order of the Local Government Board they should pass a resolution authorising an application to be made to the Board under section 276 of the Act of 1875, or section 5 of the Act of 1890, as the case may be, for an order investing them with such powers. The resolution should specify the provisions which it is desired to put in force, and the particular contributory places in respect of which the powers are sought.

“A copy of the resolution should be sent to the Board, together with a brief statement of the grounds upon which the application is made.

“If any such application is made with reference to section 157 of the Act of 1875 it should extend to section 158 of the Act also, unless section 23 (3) of the Act of 1890 is already in force.

“If powers under section 23 of the Act of 1890 are desired the council should consider the desirability of including the powers of sections 25 and 33 of the same Act in the application.” (*Memorandum*, June, 1901, prefixed to the special series of model byelaws as to New Buildings, etc., in rural districts. See pp. 174 to 198, *post*.)

PART II.

Considerations affecting byelaws generally.

The characteristics of a byelaw were thus described by Lord RUSSELL, C.J., in *Kruse v. Johnson*, (1898) 2 Q. B. 91: “A bye-law . . . I take to be an ordinance affecting the public, or some portion of the public, imposed by some authority clothed with statutory powers ordering something to be done or not to be done, and accompanied by some sanction or penalty for its non-observance. It necessarily involves restriction of liberty of action by persons who come under its operation as to acts which, but for the byelaw, they would be free to do or not do as they pleased. Further, it involves this consequence, that, if validly made, it has the force of law within the sphere of its legitimate operation.”

It is enacted by section 182 of the Public Health Act, 1875, that, “No byelaw made under this Act by a local authority shall be of any effect if repugnant to the laws of England or to the provisions of this Act.” A byelaw to be in harmony with the

laws of England must be certain and determinate, and likewise reasonable. In determining the validity of a byelaw made by a public representative body, the court is slow to hold that a byelaw is void for unreasonableness (*Kruse v. Johnson, supra*), the aim being to construe it so as to give reasonable effect to the object aimed at (*Walker v. Stretton* (1896), 60 J. P. 313; 44 W. R. 525).

A byelaw so made will be supported unless it is manifestly partial and unequal in its operation between different classes, or unjust or made in bad faith, or clearly involving an unjustifiable interference with the liberty of the subject (*Kruse v. Johnson, supra*; cf. *Southend-on-Sea v. Davis* (1900), 16 T. L. R. 167).

The Local Government Board gave expression to their views on these and other points in the following terms:—

“The Board have, from time to time, had occasion to point out to sanitary authorities that the assumption in their byelaws of the power of suspending the operation of particular provisions in individual cases is open to much objection. Frequently the conditions under which this power may be exercised have been left undetermined in the byelaws; and the result is to impart a general uncertainty to provisions of which the precise scope should be clearly defined. Again, the Board have been called upon to criticise byelaws which, while purporting to lay down rules enforceable by penalties, ignore the necessary details, and substitute vague conditions which render compliance with the byelaws dependent on the approval, by the sanitary authority or their officers, of the mode of proceeding in each case. Such byelaws also are open to objection on the ground of uncertainty, and they do not fulfil the purpose for which the power of making byelaws was conferred upon sanitary authorities. The Board think that every person who, by neglect of the rules which a byelaw is intended to prescribe, may be rendered liable to a penalty is entitled to demand from those who impose such rules a clear statement of the course of action which must be followed or avoided.

“Further, a byelaw must be reasonable. The exercise of the power which the legislature has confided to sanitary authorities must frequently bring them into contact with important interests. Within certain limits, they may regulate the conduct of persons employed in certain specified callings. They may impose restrictions upon the enjoyment of individual rights and privileges. Trade and property may, under certain conditions, be affected by

their action. These considerations point to the necessity for prudence and deliberation in the choice of byelaws, so that the duties and restraints which they create may not interfere oppressively with individual freedom of action.

“A byelaw under the Public Health Act, 1875, will also be invalid if it be repugnant to the provisions of that Act. Parliament has specified a variety of purposes for which byelaws may be made. For those purposes alone are byelaws authorised; and, as the Court of Queen’s Bench decided in the case of *R. v. Wood* (1855), 5 E. & B. 49; *S. C. nom. R. v. Rose*, 24 L. J. (N.S.) M. C. 130; 1 Jur. (N.S.) 802, sanitary authorities cannot legally assume the power of making byelaws for carrying out the general objects of the Act. It follows, therefore, that every byelaw must be strictly limited with reference to the terms of the specific enactment from which its force is derived. Any attempt, by the strained construction of any such enactment, to extend the range of a byelaw should especially be avoided. But, while it is of primary importance in framing a byelaw to consider closely the language of the statutory provision which declares its purpose, the exact meaning of that language can never be safely determined without careful comparison of other enactments relating to the same or to kindred topics.

“It must always be remembered that byelaws are designed to supplement, and not to vary or supersede, the express provisions of the statute law. In the Public Health Act, 1875, and in the incorporated clauses, the subjects of byelaws may sometimes appear identical with those of specific enactments. But, in all such cases, a closer examination will show that the subjects are not really identical.

“And, however difficult it may be to detect the points of difference in a few exceptional instances, a safe rule may be deduced from the obvious considerations that a byelaw which merely repeats a statutory enactment is, to that extent, surplusage, and that a byelaw which aims at altering or amending such an enactment is rendered invalid by the proviso in section 182 of the Public Health Act, 1875.” (*Circular Letter*, July, 1877.)

These observations should be read in connection with some recent decisions of the courts.

A byelaw is not unreasonable merely because the local authority have no power of dispensing with its application in any

particular case (*Salt v. Scott-Hall* (1903), 67 J. P. 306). See also *Pomeroy v. The Malvern Urban District Council* (1903), 67 J. P. 375 : “As to the reasonableness of this particular byelaw, the court cannot say that it is unreasonable merely because there is no clause under which the local authority can dispense with its application to any particular case. . . . No doubt it is desirable that all building byelaws should contain such a clause, because exceptional circumstances may arise in any district, but although that is so, we cannot say that the want of such a clause is fatal.” Lord ALVERSTONE, C. J., *Ibid.* p. 377.

PART III.

The following remarks may be added in explanation of the method of procedure which should be adopted by local authorities in submitting proposed byelaws for preliminary consideration of the Local Government Board. The Department issue in connection with each of the model series of bye-laws (i.) as to Nuisances (“Series II.,” p. 16), and (ii.) New Streets and Buildings (“Series IV.” and “IV. (a),” pp. 55 and 177) a “draft form” on foolscap paper, with wide margin for annotation. Copies of these forms will be supplied to any local authority on application to the Department, either in writing or otherwise. In making such application, the subjects upon which it is intended to make byelaws should be distinctly stated.

Procedure in submitting byelaws to Local Government Board.

Use of draft forms.

The following are the most recent instructions issued by the Local Government Board as to the use of these “draft forms” :—

“Any byelaws that are proposed should be submitted to the Board in the first instance in draft for their preliminary approval before any steps are taken for the printing or for the formal adoption of the byelaws. Draft forms for this purpose, in which the byelaws are printed on foolscap paper with half-margin for notes, will be supplied to local authorities on application.

“Any clauses in addition to or in substitution for those of the model series should be inserted in the draft on separate sheets of paper with half-margin ; minor alterations may be suitably shown in the margin of the model forms. It would be convenient to the Board if the draft byelaws were submitted in duplicate.” (*Memorandum*, June, 1901.)

Draft forms in connection with the additional series suggested by the Editors of the present work (pp. 33 and 204) are supplied by the publishers, and should be used in the same

way as those issued by the Local Government Board, and referred to above.

Formal
adoption to
be deferred.

Up to this point, no formal steps should have been taken by the local authority with a view to the adoption of the byelaws.

Revision by
Local
Government
Board.

If the course above indicated be followed, the Local Government Board will be readily able to direct their attention to the variations (if any) from the model that are proposed by the local authority, and to state their views upon any points which may arise.

Printing and
adoption of
the byelaws.

“When the final revision of the draft has been completed, and the . . . council have been informed of the decision of the Board with regard to the allowance or disallowance of the several clauses, the byelaws may conveniently be printed. The formal adoption of the byelaws under the seal of the council should then take place, and the sealed print of the byelaws should be submitted to the Board for formal confirmation after compliance with the statutory requirements. The following instructions should be observed:—

Preliminary
advertise-
ment and
deposit of the
byelaws for
inspection.

“Before application for confirmation is made, not less than one calendar month’s notice of the intention to apply must, in pursuance of section 184 of the Act of 1875, be given in at least one local newspaper circulating in the . . . district; and, for a full calendar month after the date of the publication of this notice in the newspaper, a copy of the byelaws must be deposited at the office of the . . . council for the inspection of the ratepayers.

“The byelaws must be kept deposited at the place described in the notice for a full calendar month after the date of publication of the newspaper in which the notice appears.

“It is essential that the copy of the byelaws so deposited should be correct, as any material error would involve a fresh compliance with the statutory requirements before confirmation could take place. If it is thought desirable the draft approved by the Board may be deposited.”

Objections.

Should any objections have been made to the proposed byelaws by persons locally interested, the Local Government Board will no doubt deem it necessary to consider the grounds of objection; but otherwise, assuming that the foregoing instructions have been fully complied with, no further action on the part of the local authority will be necessary before confirmation is given; and the byelaws will come into force immediately on being confirmed.

When the
byelaws come
into force.

PART IV.

Among other provisions in the Public Health Act, 1875, relating directly or indirectly to byelaws, attention may be directed to the following: All byelaws made by a local authority under the Act, or, for purposes the same as or similar to those of the Act, under any local Act, are to be printed and hung up in the office of the authority, and a copy thereof is to be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same (section 185). A copy of any byelaws made under the Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy, and to have been duly confirmed, will be evidence, until the contrary is proved, in all legal proceedings of the due making, confirmation, and existence of such byelaws, without further or other proof (section 186).

Publication
and evidence
of byelaws.

In the case of byelaws made by the council of a borough, section 24 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), provides that the production of a written copy of a byelaw made by the council under that Act, or under any former, or present, or future general or local Act of Parliament, if authenticated by the corporate seal, shall, until the contrary is proved, be sufficient evidence of the due making and existence of the byelaw, and, if it is so stated in the copy, of the byelaw having been approved and confirmed by the authority whose approval or confirmation is required to the making or before the enforcing of the byelaw.

Any person who destroys, pulls down, injures, or defaces any board on which any byelaw is inscribed will, if the same was put up by authority of the local authority, be liable for every such offence to a penalty not exceeding five pounds (38 & 39 Vict. c. 55, s. 306).

Destruction,
etc., of notice
boards.

SERIES II.

NUISANCES.

(PUBLIC HEALTH ACT, 1875, s. 44 ; PUBLIC HEALTH ACTS
AMENDMENT ACT, 1890, s. 26 (1).)

NUISANCES.

MEMORANDUM

*of the Local Government Board on the subject of Byelaws
with respect to Nuisances.*

By section 44 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), it is provided that—

“An urban authority may . . . make byelaws for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health.”

In connection with the last paragraph but one of the byelaw numbered 15 in the model series,* the attention of the urban authority should be directed to the provisions of section 50 of the same Act.

That section is in the following terms :—

“Notice may be given by any urban authority (by public announcement in the district or otherwise), for the periodical removal of manure or other refuse matter from mews, stables, or other premises ; and, where any such notice has been given, any person to whom the manure or other refuse matter belongs, who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the urban authority direct, shall be liable without further notice to a penalty not exceeding twenty shillings for each day during which such manure or other refuse matter is permitted to accumulate.”

In cases where the urban authority give the notice to which the above-quoted enactment refers, it will not be necessary to incorporate in any byelaws which they may make for the prevention of nuisances, under section 44, a provision such as that contained in the paragraph referred to.

* *I.e.*, the paragraph referring to the weekly cleansing of dung pits (see p. 28).

In connection with the present series of byelaws, attention may be drawn to section 26 (2) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), which provides that—

“Where a local authority themselves undertake or contract for the removal of house refuse they may make byelaws imposing on the occupier of any premises duties in connection with such removal so as to facilitate the work which the local authority undertake or contract for.”

The Board have not issued any model series of byelaws which may be made under the last-mentioned enactment, but they have inserted a proviso to the model byelaw numbered 5 in this series to meet cases where byelaws under the section referred to are, or may be at any subsequent time, in force in the district.

The urban authority, however, can only avail themselves of this provision where Part III. of the Act has been adopted.

Local Government Board,
August, 1902.

S. B. PROVIS,
Secretary.

Authorities empowered to make the byelaws.—It will be observed that s. 44 of the Public Health Act, 1875, only confers power to make byelaws as to nuisances upon the district councils of urban districts. If a rural district council desire to make such byelaws, they must first be invested with the powers of an urban district council under this section by means of an order of the Local Government Board under s. 276 of the Public Health Act, 1875.* It should also be noticed that where, by virtue of the provisions of any local Act, s. 98 of the Towns Improvement Clauses Act, 1847, is in force in the district, the district council should not include in any byelaws made by them the model clauses 6 and 12, or the second or third paragraph of clause 7. As regards clauses 6 and 7, the same remark applies in the case of byelaws made for a place which, though outside the county of London, is within the metropolitan police district. Probably in such a case clauses 2 to 4 should also be omitted and clause 12 modified as suggested *post* (p. 24). See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60, and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (a).

“Filth.”—The expression “filth” is not defined in the Public Health Act, 1875, and no attempt should be made to define it in the byelaws; but the byelaws may contain provisions referring in general terms to different kinds of filth (*e.g.*, to liquid or solid filth; see clause 9 of the model series, which refers to “filth” removed from cesspools and privies, and clauses 10 to 12, referring to “filth emitting a stench”). The term “filth,” in any case, would seem not to be limited to faecal matter, human or animal.†

* See the instructions contained in the Introduction.

† Cf. s. 49 of the Act of 1875.

Byelaws under Public Health Acts Amendment Act, 1890.—Under s. 26 (1) of this Act, an urban district council are empowered, if they have adopted Part III., to make byelaws in respect of the following matters, namely,

- “(a) For prescribing the times for the removal or carriage through the streets of any faecal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal or carriage from within or without or through their district :
- “(b) For providing that the vessel, receptacle, cart, or carriage used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid :
- “(c) For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage.”

And by s. 9 of the same Act, all the provisions with respect to byelaws contained in ss. 182—186 of the Public Health Act, 1875, and any enactment amending or extending those sections will apply to such byelaws.

It is usual to make a separate series as to these matters ; but if the district council prefer to embody such byelaws in a series based on the model byelaws as to nuisances, the clauses should be inserted under a separate heading, immediately after model clause 15. A series of clauses suggested by the Editors will be found on pp. 33 to 36.

SERIES II.—NUISANCES.

MODEL BYELAWS OF THE LOCAL GOVERNMENT
BOARD, UNDER THE PUBLIC HEALTH ACT, 1875.

[NOTE.—Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for forms on which to submit drafts in duplicate of the byelaws for the Board's preliminary approval.]

BYELAWS

MADE BY THE* WITH RESPECT TO NUISANCES IN THE† .

Interpretation of Terms.

Interpreta-
tion.

1. Throughout these byelaws, the expression “the Council” means the*, and the expression “the District” means the† .

Interpretation of terms.—Where terms used in the byelaws occur also in the Public Health Acts, and are there defined, “the proper mode of construction” will be “to apply the same interpretation to terms used in a byelaw which is applied to the same terms” in the Acts (*Blashill v. Chambers* (1884), 14 Q. B. D. 479; 53 L. T. (N.S.) 38; 49 J. P. 388). Where an expression is used in the Public Health Acts without being defined therein, the byelaws cannot define what it means. “Filth” is an expression of this kind. See, however, note as to “Filth” on p. 14.

For the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health.

Snow on
footways.

2. The occupier of any premises fronting, adjoining, or abutting on any street shall, as soon as conveniently may be

* “Mayor, aldermen, and burgesses of the borough of , acting by the Council”; or “Urban [*or Rural*] District Council of ”; *as the case may be.*

† Insert “Borough of ”; or, “Urban [*or Rural*] District of ”; or, *if the byelaws are to apply to part only of a rural district*, “that portion of the Rural District of which comprises the contributory places of ”; *as the case may be.*

after the cessation of any fall of snow, remove or cause to be removed from the footways and pavements adjoining such premises all snow fallen or accumulated on such footways and pavements in such a manner and with such precautions as will prevent any undue accumulation in any channel or carriageway or upon any paved crossing.

3. Every person who shall remove any snow from any premises shall deposit the same in such a manner and with such precautions as to prevent any undue accumulation thereof in any channel or carriageway or upon any paved crossing.

Snow removed from premises.

If in the process of such removal any snow be deposited upon any footway or pavement, he shall forthwith remove such snow from such footway or pavement.

4. Every person who shall throw salt upon any snow fallen or accumulated on any footway or pavement shall forthwith effectually remove from such footway or pavement the whole of the product resulting from the mixture of the salt with the snow.

Use of salt for removal of snow.

Nuisances from snow.—Clauses 2 to 4 of the present series deal with “nuisances arising from snow,” the first of the three kinds of nuisances referred to in the second paragraph of s. 44 of the Public Health Act, 1875. Clause 2 imposes on occupiers the duty of removing snow from the footways and pavements adjoining their premises, and requires that the snow cleared off the footways, etc., shall not be shovelled into any channel or carriageway, or upon any paved crossing, so as to obstruct vehicular traffic, incommode pedestrians, or prevent the water draining away in case of a thaw. Clause 3 requires similar precautions to be taken in the removal of snow from premises, and provides for the proper cleansing of the footways if snow is dropped thereon in the process of removal; and clause 4 deals with the nuisance to foot passengers caused by the use of salt for the purpose of removing snow from the footways. The extreme cold resulting from the mixture of salt with snow in certain proportions, and the difficulty experienced in drying leather boots which have become wetted with this mixture, not to speak of the increased risks of danger to health which would arise to foot passengers on this account, may be suggested as sufficient reasons for inserting the byelaw. When a tramway company in Scotland, after a heavy fall of snow, cleared their track by means of a snow plough and heaped up the snow upon the sides of the streets: they then scattered salt upon the rails and in the vicinity, and the town council did not take any immediate steps to remove the briny slush so produced, and it was left upon the streets, it was held by the House of Lords that a legal nuisance had been committed which was not sanctioned by either the special or the general Tramways Acts, and that the default, if any, of the town council did not affect the primary liability of the tramway company (*Ogston v. Aberdeen District Tramways Co.*, [1897] A. C. 111; 61 J. P. 436; 66 L. J. (P. C.) 1; 75 L. T. 633; 13 T. L. R. 123. *Per* Lord HALSBURY, L.C. : “If the question had arisen in England, I think some doubt might be entertained whether the obstruction as proved was such that a private person could sue

without further proof of peculiar damage to himself; but that question does not arise according to the law of Scotland.” As to the removal of snow in streets of Canadian towns, see *City of Montreal v. Montreal Street Tramways Co.*, [1903] A. C. 482. Clause 2, it will be noticed, refers only to footways adjoining premises which front, etc. on “streets” (*i.e.*, streets as defined by s. 4 of the Public Health Act, 1875), but clauses 3 and 4 apply to “any footway or pavement.”

As regards the roadway, the urban authority are themselves bound, as being the highway authority, to remove snow in accordance with s. 26 of the Highways Act, 1835 (5 & 6 Will. 4, c. 50), which enacts that if any impediment or obstruction shall arise in any highways from accumulation of snow, the surveyor (*i.e.*, the urban authority in an urban district) is required from time to time, and within twenty-four hours after notice thereof from any justice of the peace of the county in which the parish (*i.e.*, the urban district) may be situate, to cause the same to be removed. Failure to comply with such notice will render the urban authority liable under s. 20 of the same Act to a penalty of five pounds.*

The cost of removing snow so as to render a main road passable is an expense of maintenance towards which the county council are bound under s. 11 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), to contribute where such main road has been retained by the urban authority under that section (*Amesbury Union v. Wiltshire JJ.* (1883), 10 Q. B. D. 480; 52 L. J. M. C. 64; 31 W. R. 521; 47 J. P. 184).

Places within the metropolitan police district.—It is, at least, doubtful whether these model clauses 2 to 4 can be included in byelaws made for any place within the metropolitan police district, although not within the county of London. (See the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (6), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2)(a).) In the county of London the subject is provided for by s. 29 of the last-mentioned Act. Section 29 of this Act, which imposes on the sanitary authorities of London the duty of removing street refuse from the streets within their respective districts, does not give any right of action to a person suffering special damage from a breach of such duty (*Saunders v. Holborn District Board of Works*, [1895] 1 Q. B. 64; 64 L. J. Q. B. 101; 71 L. T. 519; 43 W. R. 26; 59 J. P. 453; 15 R. 25).

Removal of
filth, etc.,
from pre-
mises.

5. The occupier of any premises who shall remove or cause to be removed any filth, dust, ashes, or rubbish produced upon his premises shall not, in the process of removal, deposit such filth, dust, ashes, or rubbish, or cause or allow such filth, dust, ashes, or rubbish to be deposited upon any footway, pavement, or carriageway.

Provided always that the foregoing requirement shall not be deemed to prohibit the deposit upon the kerbstone or outer edge of the footpath of a proper receptacle containing dust or rubbish

* With regard to the application of these enactments to a rural district, see s. 25 (1) of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

in accordance with the requirement of any byelaw in force relating to the removal of house refuse.

Removal of filth, etc., from premises.—Clauses 5 to 12 are concerned with the second category of nuisances referred to in the latter part of s. 44, viz., those arising from “filth, dust, ashes, and rubbish.” As to the term “filth,” reference may be made to the note on p. 14. Clause 5 makes occupiers responsible for the removal of house refuse, the contents of privies, or any other filth, rubbish, etc., from their premises, in such a manner as to prevent the nuisance which may be occasioned (*e.g.*) by the deposit, even for a few minutes, of a privy pail on the road or footway, instead of placing it, or its contents, at once in the scavenger’s cart. The byelaw is not necessarily to be regarded as unnecessary where the district council, under s. 42, undertake or contract for the removal of filth and refuse; for even in such cases the occupier has the right of disposing of the refuse and excremental matters produced upon his premises for his own use and profit.

Proviso as to ashtubs.—The proviso to this clause is suggested by the Local Government Board to meet cases where byelaws under s. 26 (2) of the Public Health Acts Amendment Act, 1890, are, or may be at any subsequent time in force in the district. (See the memorandum prefixed to this series, p. 14.) For a series of model clauses suggested by the present Editors under the enactment mentioned, see their Model Byelaws, Vol. II., pp. 153 to 157.*

[6.† The occupier of any premises within the distance of *twenty yards* from any street or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship, or of public resort or public assembly, or from any building in or on which any person may be employed in any manufacture, trade, or business, shall not, without reasonable excuse, empty or cleanse or cause to be emptied or cleansed any privy, cesspool, or other receptacle for filth belonging to his premises or provided for use in, or in connection with such premises, or remove or cause to be removed from such privy, cesspool, or receptacle, or from such premises, any part of the contents of such privy, cesspool, or receptacle, at any time except between the hours of *six o’clock* and *half-past eight o’clock* in the forenoon, during the months of March, April, May, June, July, August, September, and October, and except between the hours of *seven o’clock* and *half-past nine o’clock* in the forenoon, during the months of November, December, January, and February.]

Cleansing of
privies, etc.,
between
certain hours.

Hours for cleansing of privies, etc.—This clause is designed to so regulate the hours within which receptacles for excremental and other filth may be emptied or cleansed, and the contents removed, as to ensure that the

* London : Butterworth & Co., and Shaw & Sons, 1899.

† This clause may be omitted if not required.

work shall not be done under cover of darkness. Apart from other considerations, the attention of local authorities cannot be too strongly drawn to the danger of allowing scavenging to be done at any hour when the light is insufficient to enable the men to do it properly, or to secure the most careful supervision of their operations. It will be observed that for the purposes of this and other clauses of the model series, churches, schools, factories, etc., are placed in the same category with dwelling-houses. The principle recognised is that there should be no avoidable risk of air pollution where growing children are concerned, or where persons are congregated in confined spaces, or spend any considerable portion of their time in a heated or confined atmosphere.

Places within the metropolitan police district, etc.—This byelaw should be omitted where a place is within the metropolitan police district, although not within the county of London (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (4), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (a)), or where s. 98 of the Towns Improvement Clauses Act, 1847, is in operation.

Removal of
filth, etc.,
from pre-
mises or carts.

7. (a) Every person who shall remove any filth, dust, ashes, or rubbish from any premises, or from any cart, carriage, or other means of conveyance across or along any footway, pavement, or carriageway, shall use a suitable vessel or receptacle properly constructed and furnished with a sufficient covering so as to prevent the escape of the contents thereof; and shall adopt such other precautions as may be necessary to prevent any such filth, dust, ashes, or rubbish from being slopped or spilled, or from falling in the process of removal upon such footway, pavement, or carriageway.

(b) Every person who shall convey any filth, dust, ashes, or rubbish through or along any street shall use a cart, carriage, or other means of conveyance properly constructed and furnished with a sufficient covering so as to prevent the escape of the contents thereof.

(c) If in the process of such removal or conveyance as aforesaid any filth, dust, ashes, or rubbish be slopped or spilled, or fall upon any footway, pavement, or carriageway, he shall forthwith remove such filth, dust, ashes, or rubbish from the place whereon the same may have been slopped or spilled or may have fallen, and shall immediately thereafter thoroughly sweep or otherwise thoroughly cleanse such place.

Removal of filth, etc., from premises or carts.—Sub-clause (a) provides against the slopping or spilling in the streets of filth or refuse in the course of removal from premises or from a scavenger's cart. The clause appears to be applicable whether the work of removal be performed by the occupier or by a contractor under s. 42 of the Public Health Act, 1875.

Provision of receptacles by the council.—By s. 45 of the Public Health Act, 1875, it is enacted that any urban authority may, if they see fit, provide in proper and convenient situations receptacles for the temporary deposit and collection of dust, ashes and rubbish.

Construction of night-soil and dust-carts.—By means of sub-clause (b) the district council will be enabled to insist on the use of properly constructed carts for the conveyance of night-soil, house refuse, etc., through the streets, whether the occupiers are responsible for the cleansing of privies and ashpits, or the work is performed for the council by a contractor. For wet and sloppy matter, the cart used should be watertight. As a covering to prevent droppings, etc., a good tarpaulin, properly tied over the top, is generally found sufficient, except in the case of liquid refuse. In connection with this provision, clause No. 12, on p. 24, may be referred to.

Removal of matter dropped in process of removal.—Sub-clause (c) is important in the interests of health. If offensive matter is allowed to remain on a road, so as to soak into the ground, or be churned up by passing traffic, the road surface is polluted by it for an indefinite time. Moreover, filth slopped or spilled upon the surface of the street may contain infected matter, and this becoming dried may blow about in the street as infective dust, and thus give rise to risk of spreading disease.

Places within the metropolitan police district, etc.—In the case of places within the metropolitan police district, although outside the county of London (see the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 60 (4), and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2)(a)), and of places within which s. 98 of the Towns Improvement Clauses Act, 1847, is in force, sub-clauses (b) and (c) of this byelaw should be omitted from the series.

Obstructions by dust-carts, etc.—Any obstruction that may be caused by allowing the cart or carriage to stand longer than necessary for the loading of it can be dealt with under s. 72 of the Highways Act, 1835 (5 & 6 Will. 4, c. 50), or s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89). Reference may also be made in this connection to *Rex v. Russell* (1805), 6 East, 427; 2 Smith, 424; 8 Rev. Rep. 506; *Rex v. Cross* (1812), 3 Camp. 224; 13 Rev. Rep. 794; *Benjamin v. Storr* (1874), L. R. 9 C. P. 400; 43 L. J. C. P. 162; 30 L. T. 362; 22 W. R. 631; and Pratt's Law of Highways, by Mackenzie, 14th ed., pp. 90 *et seq.* Moreover s. 78 of the Highways Act, 1835, which makes it an offence for the driver of any carriage to be at such a distance from it whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same, applies where the driver leaves the carriage standing by the roadside (*Phythian v. Barendale*, [1895] 1 Q. B. 768; 64 L. J. M. C. 174; 72 L. T. 465; 43 W. R. 412; 59 J. P. 217).

8. The owner or consignee, or any person who may have undertaken the delivery to such owner or consignee, of any cargo, load, or collection of filth which may have been conveyed, by water or by land, to any place within the district to await removal from such place by such owner or consignee, and may have been deposited to await such removal upon any

Consignments of filth to be delivered to owners, etc.

premises whereon such filth may lawfully be deposited, but in such a situation and in such a manner that such filth may be exposed without adequate means of preventing the emission of stench therefrom at a distance of not more than *one hundred yards* from any street or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship, or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade or business, shall not, without reasonable excuse, cause or suffer such filth to remain after the deposit and before the removal thereof for a longer period than *twenty-four hours*.

Consignments of filth.—This clause will be found very useful for preventing consignments of manure, etc., being deposited at railway sidings, canal wharves, or elsewhere, for an unreasonable time under such conditions as to create nuisance or be prejudicial to health. The reason for treating churches, schools, and factories in this series, as in the same category as dwelling-houses, has already been suggested (see note on clause 6†). It will be seen that the clause not only limits the time for the removal of the filth by the owner or consignee when he is responsible for such removal, but will apply also in case of neglect on the part of any other person who may have undertaken the delivery of the stuff to him, as for example, the owner of the wharf or other place at which the cargo is unloaded. It would seem that the place of temporary deposit referred to might be either on the premises of the owner or consignee, or elsewhere. If it was not on his own premises, both the owner or consignee and the person undertaking to deliver might in some circumstances be liable under the byelaw. As to the treatment of certain kinds of filth deposited on land for agricultural purposes, see clause No. 9. Clauses 10 and 11 may also be referred to with regard to the deposit of filth which is to be subsequently carted away for these or other purposes.

Deposits of
night-soil
manure.

9. Every person who, for any purpose of agriculture, shall deposit or cause to be deposited upon any lands or premises within the distance of *one hundred yards* from any street, or from any building or premises used wholly or partly for human habitation, or as a school, or as a place of public worship, or of public resort or public assembly, or from any building or premises in or on which any person may be employed in any manufacture, trade, or business, any filth which may have been removed from any cesspool, or any filth which may have been removed from any privy, or from any receptacle used in connection with any privy, and which may not have been effectually deodorised, shall, with all reasonable dispatch, cause such filth to be ploughed or dug into the ground or to be covered with a sufficient layer of earth, ashes, or other suitable substance, or shall adopt

such other precautions as may be reasonably necessary to prevent the emission of noxious or offensive effluvia from such filth.

Treatment of night-soil manure.—Clause 8 of the model series deals with the temporary deposit of any kind of filth pending removal by, or delivery to, the owner or consignee. The present clause refers only to privy and cesspool filth which is intended for purposes of agriculture. The byelaw is directed against the nuisance which arises if such stuff, in an undeodorised state, is deposited upon, or spread over the land without being properly covered with earth, or ploughed or dug into the ground without needless delay.

Cases coming within this byelaw may also be dealt with under ss. 91—96 of the Public Health Act, 1875, inasmuch as s. 91 (4) declares that any accumulation or deposit which is a nuisance or injurious to health shall be deemed to be a nuisance liable to be dealt with summarily under this Act. In *Mayor, etc. of Scarborough v. Rural Sanitary Authority of Scarborough* (1876), 1 Ex. D. 344; 34 L. T. 768; 40 J. P. 455, the appellants, who were the urban sanitary authority of Scarborough, deposited, in a field, ashes, manure, and refuse collected in Scarborough, in order that the same might be removed by certain farmers with whom they had contracted for the purchase thereof. The appellants were not the owners or tenants of the field, and they exercised no control over the ashes, etc., after the same were deposited there. The deposit formed a nuisance. An order was made under the Public Health Act, 1875, s. 96, by justices against the appellants for the abatement of the existing nuisance, and for the prohibition of its recurrence:—*Held*, that so much of the order as directed an abatement was bad, for it prescribed an act, the execution of which might involve the commission of a trespass; but that so much of the order as prohibited a recurrence was good, for it was the act of the appellants which created the nuisance. This case was followed in *R. v. Trimble* (1877), 36 L. T. 508; 41 J. P. 455; and in the Irish case of *Letterkenny Commissioners v. Collins* (1891), 28 L. R. Ir. 235; but was not approved in *Parker v. Luge* (1886), 17 Q. B. D. 584; 55 L. J. M. C. 149; 55 L. T. 300; 51 J. P. 20. The ground for this is that there is a possibility of the owner being able to enter on the works. “It is not probable,” said POLLOCK, B., “that the tenant in the great majority of instances would object to his landlord coming upon the premises to abate a nuisance which was injurious to the health of persons living there. If the tenant does object, s. 98 applies, and no liability to a penalty incurs until default is found, and the person in default ‘fails to satisfy the court that he has used all due diligence to carry out’ the order to abate the nuisance. . . .” An order may therefore be made upon the owner, although not in occupation, to abate in nearly all cases, and if the occupier objects to his obeying the order, he may then, under s. 98, satisfy the justices that he has used all due diligence to carry out the order. It may be added that the attention of the court does not appear to have been called to s. 98 in the *Scarborough Case*, or in *R. v. Trimble, supra*.

10. No person shall unload or deposit within *one hundred yards* from any street or from any building used for human habitation, or as a school or place of public resort, or in which any person is employed in any manufacture, trade, or business, any filth

“Filth emitting a stench”
not to be
deposited
near dwell-
ings, etc.

emitting a stench and brought to the place of unloading or deposit for the purpose of being removed therefrom.

“Filth emitting a stench”—treatment to prevent nuisance.

11. Every person who shall unload or deposit any filth emitting a stench, and brought to the place of unloading or deposit for the purpose of being removed therefrom, in any place within such a distance from any building used for human habitation, or as a school or place of public resort, or in which any person is employed in any manufacture, trade, or business, that the stench is likely to cause offence to the persons in such building (although such place be not within the distance of *one hundred yards* from such building), shall cause such filth to be forthwith covered with a sufficient layer of earth or other suitable substance, or shall adopt such other precautions as may be sufficient to prevent the emission of any noxious or offensive effluvia from the filth.

“Filth emitting a stench”—conveyance through streets.

12. Every person who shall convey any filth emitting a stench through or along any street shall, previous to and during the whole time of such conveyance, cause such filth to be covered with lime or other suitable substance, or shall adopt such other precautions as respectively may be reasonably necessary to prevent the emission of noxious or offensive effluvia from such filth.

“**Filth emitting a stench.**”—Clauses 10, 11, and 12 are intended to prevent (a) the use for the unloading of filth emitting stench of a wharf or siding within one hundred yards from a street or from certain buildings; (b) the emission of noxious or offensive effluvia from any such filth unloaded at a wharf or siding beyond the prescribed distance from any such buildings, but so situated as to cause offence to persons if due precautions are not taken; and (c) the emission from such filth of noxious or offensive effluvia while it is being conveyed through the streets. As examples of the kind of filth to which these byelaws are specially intended to apply, fish manure, slaughter-house refuse, and the peculiarly offensive compounds classed under the head of “town manure,” may be mentioned. The clauses will be useful where the night-soil of a large town is carted through an urban district on its outskirts.

Byelaws under 53 & 54 Vict. c. 59.—Byelaws as to the conveyance of filth through the streets may, as already mentioned (p. 15), be made under s. 26 (1) of the Public Health Acts Amendment Act, 1890.

Places within the metropolitan police district.—It would seem that in view of the special provisions in force in that portion of the metropolitan police district which is outside London (see the 2 & 3 Vict. c. 47, s. 60 (4)), clause 12 should be modified in regard to any area included within the district, so as not, in form, to require the filth to be covered, but to provide that, unless it is so covered as to prevent the emission of stench, there shall be placed and kept thereon, during the whole time of conveyance, lime or other suitable deodorant.

Byelaw as to throwing liquid or wet refuse into ashbins.—A clause sometimes added to this series prohibits the throwing, or suffering to be thrown, into any ashpit constructed or adapted for use only as a receptacle for dry refuse, of any liquid, or wet refuse. Such a clause has an important bearing upon health.

Position of movable ashpits.—The power of making byelaws conferred by s. 44 of the Public Health Act, 1875, and s. 26 (2) of the Public Health Acts Amendment Act, 1890,* was very ingeniously made use of by the town council of Bootle, in the year 1899, to provide for fixing the position of movable ashpits in relation to dwelling-houses, and to sources of water supply.

Byelaws as to the keeping of certain animals.—The model clauses with respect to “the prevention of the keeping of animals on any premises so as to be injurious to health” are numbers 13 to 15. They deal with the keeping of horses and other beasts of draught or burden, and of cattle and swine. They prohibit (or as regards rural areas, regulate) the keeping of pigs within a prescribed distance from dwelling-houses; provide against the pollution of water supplies by the keeping of cattle or swine, or the deposit of the dung of the animals in unsuitable places, and prescribe certain regulations as to the drainage of stables, cow-sheds, and piggeries, the provision in connection therewith of receptacles for the dung, etc., produced in the keeping of the animals, and the cleansing of the receptacles.

Byelaws as to the keeping of other animals (poultry, ducks, geese, pigeons, rabbits, goats, etc.).—Before considering in detail the provisions of the model clauses, it may be useful to mention that special clauses regulating the keeping, so as not to be injurious to health, of animals other than those referred to in the preceding paragraph, have been allowed by the Local Government Board. Thus byelaws have been made by local authorities and confirmed by the Board, prohibiting the keeping of poultry, ducks, geese, pigeons, rabbits, goats, etc., within a specified distance from dwelling-houses, or other buildings in which persons live or work, unless the places in which the animals are kept are maintained in a cleanly and wholesome condition. A similar byelaw has been made with respect to the keeping of horses; and model clause 14 has been adapted so as to provide against the pollution of sources of water supply by the keeping of fowls, ducks, or geese. Such clauses, however, are not usually required unless the keeping of the animals mentioned is so common as to constitute more or less an industry in the neighbourhood. See ss. 91 to 96 of the Public Health Act, 1875.

<p>13.† The occupier of any premises shall not keep any swine or deposit any swine's dung within the distance of</p>	<p><i>feet</i></p>	<p>Keeping of swine near dwellings, etc.</p>
<p>from any dwelling-house.</p>		

<p>14. The occupier of any premises shall not keep any cattle or swine or deposit the dung of any cattle or swine in such a situation or in such a manner as to pollute any water supplied for use, or used, or likely to be used, by man for drinking or</p>	<p>Keeping of cattle or swine near water supply.</p>
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* See Model Byelaws, Vol. II., pp. 153 to 157. (London: Butterworth & Co., and Shaw & Sons, 1899.)

† See clause 13* and note on next page, as to the keeping of swine in rural areas.

domestic purposes or for manufacturing drinks for the use of man, or any water used or likely to be used in any dairy.

Pollution of air and water supply by excrement of animals.—The importance of the matters dealt with in the model clauses 13 and 14, in relation to health, cannot well be over-estimated. In connection with clause 13 it may be mentioned that in the case of an urban district, a byelaw prohibiting the keeping of swine within *one hundred feet* from a dwelling-house was held by the court to be reasonable in the case of *Wanstead Local Board of Health v. Wooster* (1873), 37 J. P. 403; 38 J. P. 21; and it is believed that a byelaw prescribing even a greater distance than one hundred feet has been confirmed by the Local Government Board for an urban district. It may be questioned whether, in any case, less than, say, *sixty feet* would be assented to by them.

It is not necessary, in order to justify a conviction under byelaws in the form in the text, that the pigs or cattle should have been fed or kept during the night within the prohibited limits. Thus, where a byelaw made by an urban authority imposed a penalty for keeping swine within fifty yards of a dwelling-house, the respondent, a pig-dealer, on receiving orders for the sale of pigs, used to bring the animals in the morning to a place within the urban district, and within fifteen yards of a dwelling-house, and keep them there till the evening, but without feeding them, and in the evening the pigs were sent off by railway or otherwise to the purchasers, and it was held that there was, nevertheless, a keeping of the swine contrary to the byelaw (*Steers v. Manton* (1893), 57 J. P. 584).

The keeping of swine “so as to be a nuisance to any person” is the subject of penalties under the express provision in s. 47 of the Public Health Act, 1875. See also s. 91 of that Act, which applies to the keeping of any animal “so as to be a nuisance or injurious to health.”

Keeping of swine in rural areas.—“In the case of a rural district,” the Local Government Board, “in view of the decision in *Heap v. Burnley Rural Sanitary Authority* (1884), 12 Q. B. D. 617; 53 L. J. M. C. 76; 32 W. R. 661; 48 J. P. 359, . . . suggest that the following clause (13*) should be substituted for the clause numbered 13 on the preceding page.

Keeping of
swine in
rural areas.

13*. The occupier of any premises shall not keep any swine within the distance of *feet* from any dwelling-house, unless the sty or place in which such swine are kept be maintained in a cleanly and wholesome condition.

The decision alluded to referred to a byelaw similar to model clause 13 (p. 25) which prohibited the keeping of swine within fifty feet from any dwelling-house within a rural district, and the byelaw was held to be unreasonable and bad. Lord COLERIDGE, C.J., in giving judgment in this case, said it was impossible to attempt to lay down what, under all circumstances, would be a reasonable byelaw; but it seemed to him unreasonable to say that in country districts nobody should keep a pig within fifty feet of his dwelling-house.

The alternative clause now suggested by the Local Government Board qualifies the prohibition by reference to the *manner* in which swine may not be kept in rural districts within the prescribed distance. Although the byelaw is suggested for “rural districts” only, it would seem to be equally

necessary to avoid the total prohibition of the keeping of swine within a prescribed distance of dwelling-houses in the case of any area (whether technically a "rural district" or not) which is of a *rural character*.

Piggeries near streets, etc.—A byelaw sometimes proposed prohibits the keeping of pigs within a prescribed distance of any public thoroughfare; but this does not seem to be a matter which, by itself, can be regarded as "injurious to health." Such a byelaw, therefore, is to be regarded as *ultra vires*. (See *Everett v. Grapes* (1861), 3 L. T. 669; 25 J. P. 644.) It may, however, be pointed out that, as regards urban districts, s. 28 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), which is incorporated with the Public Health Act, 1875, by s. 171 of the latter Act, prohibits the keeping of any pigsty to the front of any street, not being shut out from such street by a sufficient wall or fence, and the keeping of any swine in or near any street, so as to be a common nuisance. Section 47 of the Act of 1875, moreover, provides for any case where swine or pigsties may be kept so as to be a nuisance to any person.

Nuisance depending on number of pigs kept.—The question whether the keeping of pigs is injurious to health depends to some extent upon the number of pigs kept in a given space, or on a given spot. The following byelaw is in force within the urban district of Loughton, in lieu of clause 13 of the model series:—

The occupier of any premises shall not keep any swine within the distance of *one hundred and fifty feet* from any dwelling-house, where the number of swine kept by him is *three* or exceeds *three*.

Number of pigs which may be kept within a prescribed distance.

Where the number of swine kept by such occupier is less than *three*, he shall not keep such swine within the distance of *one hundred and fifty feet* from any dwelling-house, unless the sty or place in which such swine are kept be maintained in a cleanly and wholesome condition. In no case shall he keep any swine or deposit the dung of such swine within the distance of *one hundred feet* from any dwelling-house.

15. Every occupier of a building or premises wherein or whereon any horse or other beast of draught or burden or any cattle or swine may be kept shall provide, in connection with such building or premises, a suitable receptacle for dung, manure, soil, filth, or other offensive or noxious matter which may, from time to time, be produced in the keeping of any such animal in such building or upon such premises.

Receptacles for dung, etc., to be provided.

He shall cause such receptacle to be constructed so that the bottom or floor thereof shall not in any case be lower than the surface of the ground adjoining such receptacle.

Construction of receptacles.

He shall also cause such receptacle to be constructed in such a manner and of such materials and to be maintained at all

times in such a condition as to prevent any escape of the contents thereof, or any soakage therefrom, into the ground or into the wall of any building.

He shall cause such receptacle to be furnished with a suitable cover and, when not required to be open, to be kept properly covered.

Stables, etc.,
to be drained.

He shall likewise provide in connection with such building or premises a sufficient drain constructed in such a manner and of such materials and maintained at all times in such a condition as effectually to convey all urine or liquid filth or refuse therefrom into a sewer, cesspool, or other proper receptacle.

Cleansing of
dung-pits.

He shall, once at least in *every week*, remove or cause to be removed from the receptacle provided in accordance with the requirements of this byelaw all dung, manure, soil, filth, or other offensive or noxious matter produced in or upon such building or premises and deposited in such receptacle.

Proviso for
rural areas.

*Provided always that the foregoing byelaw shall not apply in any case in which the building or premises wherein or whereon any such animal may be kept shall not be within *feet* of any dwelling-house which is not in the same curtilage as such building or premises.

Dung-pits.—Paragraphs 1—4 and 6 of this clause regulate the keeping of the dung of animals so as to prevent injury to health. The concluding words of s. 44 of the Public Health Act, 1875, seem wide enough to authorise such a clause, and it is understood that great importance is attached to the provision by the Local Government Board. See also the cases of *Wanstead v. Wooster* (1873), 38 J. P. 21; and *Local Board of Tong Street v. Seed* (1874), 38 J. P. 757; 39 J. P. 278, where such a byelaw was held reasonable. The byelaw requires that the dung-pit shall be wholly above ground; that it shall be watertight, and have a proper cover; and that it shall be emptied at least once a week. It will be observed that the arrangement prescribed aims, among other things, at keeping rain and subsoil water from the contents of the dung-pit, and preventing the soakage of offensive liquid into the ground or any adjacent building. The kind of “cover” which should be provided for the receptacle may depend on the circumstances of the case. In some situations probably the requirement would be satisfied if a roof were constructed over the receptacle.

Draining, paving, etc., of stables, cowsheds, and pigsties.—Paragraph 5 of the byelaw requires every stable, cowhouse, or pigsty to be properly drained, and it is suggested that the Local Government Board would probably sanction an addition to the series of a clause prohibiting the keeping of cattle, horses, pigs, etc., in cowsheds, stables, or sties, the floors of which

* See fourth note on next page.

are not properly paved with hard and impermeable material, with a proper fall towards the drain to be provided in accordance with this byelaw. It is understood, indeed, that clauses prescribing somewhat detailed regulations with regard to the construction and cleansing of pigsties have been allowed in cases where pig-keeping is common in the neighbourhood. The construction of the floors of stables, cowsheds, and pigsties might be made the subject of a byelaw under s. 23 (1) of the Public Health Acts Amendment Act, 1890, where that Act is in force; but the byelaws here referred to were made under s. 44 of the Public Health Act, 1875.

Regulations as to dairies and cowsheds.—Where regulations with respect to dairies and cowsheds made under article 13 of the Dairies, Cowsheds, and Milkshops Order of 1885, are in force, the provisions of those regulations should be considered in connection with any byelaws affecting cowhouses which it may be proposed to adopt under s. 44 of the Public Health Act, 1875. For the model regulations of the Local Government Board on the subject and notes thereon see the Editors' Model Byelaws, Vol. II., pp. 66 to 84.*

Receptacles for pig-wash, etc.—It has been suggested that the byelaws should require the provision of properly covered receptacles for the food or "wash" intended to be given to pigs; but it is undesirable to encourage the storing of large quantities of this kind of matter.

Removal of dung.—In order to secure a conviction under paragraph 6 of this byelaw it is not necessary to prove that a nuisance was caused by disobeying it (*Tong Street Local Board v. Seed* (1874), 39 J. P. 278). With reference to this paragraph, see also the memorandum of the Local Government Board (*ante*, p. 13), and s. 50 of the Public Health Act, 1875, therein cited. See further ss. 49 and 91 of that Act, and *Smith v. Waghorn* (1863), 27 J. P. 744.

Proviso for rural areas.—The Local Government Board suggest that "in districts which are of a rural character," the model clause 15 should be adopted with the proviso which they have recently added to the clause. (See p. 28.) The proviso is not intended for general adoption in other cases. In connection with this proviso, however, the following remarks of Dr. Ballard† are deserving of consideration. Nuisance from the keeping of animals, he observes, "is more likely to arise, and when it arises to be more serious in character, where the population is dense than where it is sparse. But it is not solely amid aggregations of population that such nuisances may be occasioned. A single animal, badly kept, in or near a solitary house, may be a source of injury to the inhabitants of that house in consequence of the effluvia proceeding from it." It is understood that this proviso has been allowed where it applied only to paragraphs 1—4 and 6 of the byelaw, the fifth paragraph being made a separate clause. The effect would be to require all stables, piggeries, etc., wherever situated, to be drained, although the other requirements of the model clause did not apply to them.

Distance of premises from a street.—It is sometimes proposed to require that any building or premises to be exempted from the operation of clause 15 shall be more than a certain distance from any street. But this is open to

* London: Butterworth & Co., and Shaw & Sons, 1899.

† Report on Effluvium Nuisances (Sixth Report of the Medical Officer of the Local Government Board). Published in separate form, 1882.—Shaw & Sons.

the objection that the keeping of animals within a given distance of a street is not necessarily injurious to health. No such byelaw could, therefore, be allowed under s. 44 of the Public Health Act, 1875. (See note, p. 27.)

Byelaws under 53 & 54 Vict. c. 59.—Where s. 26 (1) of the Public Health Acts Amendment Act, 1890, is in force, and it is desired to make a series of byelaws embodying clauses under that enactment, as well as byelaws made under s. 44 of the Act of 1875, such clauses should be inserted here, under appropriate headings. For model byelaws as to nuisances, suggested by the Editors for adoption under the enactment of 1890, see pp. 33 to 36, *post*.

Penalties.

Penalties.

16. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of five pounds, and in the case of a continuing offence to a further penalty of forty shillings for each day after written notice of the offence from the council.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—The sums mentioned represent the maximum penalties allowed by s. 183 of the Public Health Act, 1875. The proviso must be retained in all cases.

Recovery of penalties.—As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley's Public Health, 5th ed., p. 333.

Repeal of Byelaws.

Repeal.

17. From and after the date of the confirmation of these byelaws, the byelaws relating to nuisances which were made by the on the day of in the year one thousand hundred and and which were confirmed by [one of her late Majesty's Principal Secretaries of State] [*or* the Local Government Board] on the day of in the year one thousand hundred and , shall be repealed.

Repeal.—This clause should be completed and included in the series, if there are any byelaws in force as to nuisances arising from snow, filth, etc., and the keeping of animals, and the district council are desirous of repealing such byelaws. The Local Government Board request that they may, in any case, be informed, when a district council submit a byelaw, or series of byelaws as to nuisances, etc., under s. 44 of the Public Health Act, 1875, for approval, whether there are, or are not, any byelaws in force in the district upon the subject.

MEMORANDUM

as to the Removal of Filth, etc., through the Streets.

Authority for Byelaws on the Subject.

BYELAWS with respect to the removal of fæcal and other offensive or noxious matters through the streets may be made under sub-section (1) of section 26 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), or any local Act containing similar provisions. The sub-section referred to enacts as follows:—

“An urban authority may make byelaws in respect of the following matters, namely:—

“(a) For prescribing the times for the removal or carriage through the streets of any fæcal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal or carriage from within or without or through their district:

“(b) For providing that the vessel, receptacle, cart, or carriage used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid:

“(c) For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage.”

Local Authorities competent to make Byelaws.

Byelaws under the enactment above cited can only be made by an urban district council after the adoption by them in manner required by the Act (see section 3), of Part III. of the Public Health Acts Amendment Act, 1890, and by a rural district council after the provisions of section 26 (1) have been put in force in their district, or some part thereof, by an order of the Local Government Board (section 5). In view of the provisions contained in section 60 (4) of the Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), which is not repealed as regards

places outside the county of London (see Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142 (2) (a)), it is not the practice of the Local Government Board to allow byelaws under section 26 (1) of the Act of 1890, in respect of any area which is comprised within the metropolitan police district.

Scope of the Model Byelaws.

The byelaws may regulate the carriage through the streets of the district to which they apply, of filth which is brought into or through the district from an adjoining or neighbouring district, as well as filth collected and removed from premises within the first-mentioned district. A series of this kind, therefore, will be found very useful in diminishing the nuisance often experienced (*e.g.*) in urban districts on the outskirts of a large town, in connection with the removal into the country of night-soil and other offensive matter from the town.

Copyright Series.

[NOTE.—*The publishers supply draft forms of these byelaws enabling any local authority proposing to make byelaws on the subject mentioned below to submit their proposals to the Local Government Board in a convenient form. That Board desires all proposed byelaws to be submitted to them, in the first instance, in draft (in duplicate).*]

MODEL BYELAWS SUGGESTED BY THE EDITORS, UNDER THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890, AS TO THE REMOVAL OF FILTH THROUGH STREETS.

BYELAWS

MADE BY THE* WITH RESPECT TO THE REMOVAL OR CARRIAGE
THROUGH THE STREETS OF FÆCAL OR OFFENSIVE OR NOXIOUS
MATTER OR LIQUID WITHIN THE† .

Interpretation of Terms.

1. Throughout these byelaws, the following words and expressions shall have the meanings hereinafter respectively assigned to them, that is to say,—

“ Council ” means the* ;

“ District ” means the† .

Interpretation of terms.—See note on p. 16. In connection with the expression “ district,” see the memorandum on pp. 31, 32.

Byelaws under Acts of 1875 and 1890 may be made in one series.—As indicated in a note on p. 15, it is optional with a local authority proposing byelaws as to nuisances under s. 44 of the Public Health Act, 1875, as well as byelaws under s. 26 (1) of the Public Health Acts Amendment Act, 1890, whether they do so in separate series, or in a

* “ Mayor, aldermen, and burgesses of the borough of , acting by the Council ” : or, “ Urban [or Rural] District Council of ” ; as the case may be.

† Insert “ Borough of . ” or “ Urban [or Rural] District of ” : or, if the byelaws are to apply to part only of a rural district, “ that portion of the Rural District of which comprises the contributory places of ” : as the case may be.

combined series. In the latter case, clauses 1 and 5 of the present series should be omitted, and the remaining clauses inserted, under the headings shown below, after clause 15 of the model series suggested by the Local Government Board. (See pp. 16 to 30).

For prescribing the times for the removal or carriage through the streets of any fæcal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal from within or without or through the district.

Hours for
removal of
filth.

2. A person shall not, within the district, remove or carry, or cause to be removed or carried, through the streets, any fæcal or offensive or noxious matter or liquid, other than stable manure, whether such matter or liquid shall be in course of removal or carriage from within or without or through the district, except between and o'clock in the morning from the *first* day of *March* to the *thirty-first* day of *October* (both inclusive), and between and o'clock in the morning during the rest of the year.

Exemption of stable manure.—It will be seen that clauses 2 and 3 of this series are so drawn as to be inapplicable to the removal through the streets of stable manure. It is not usually considered necessary to bring the removal of horse dung manure within the scope of such byelaws as may be made under paragraph (a) or (b) of s. 26 (1) of the Public Health Acts Amendment Act, 1890.

Hours for removal of filth through the streets.—The Local Government Board lay great stress on the performance of all scavenging operations by daylight. The hours prescribed by clause 6† of that Board's model series as to nuisances,* for emptying or cleansing of privies, cesspools, and other receptacles for filth, are from six to half-past eight o'clock in the morning from the 1st March to the end of October, and from seven to half-past nine o'clock in the morning from the 1st November to the end of February. Where that clause is in force, the hours prescribed in clause 2 of the present series should include the same hours; but the time allowed for the work of cartage might well commence a little earlier, and extend to a little later, if necessary, than is allowed by the other byelaw for the work of emptying and cleansing, assuming, of course, that the requirements of clauses 3 and 4 of the present series are duly enforced.

For providing that the vessel, receptacle, cart or carriage used for such removal or carriage through the streets shall be properly constructed and covered so as to prevent the escape of any such matter or liquid.

Construction
of carts, etc.

3. A person who, within the district, shall remove or carry, or cause to be removed or carried through the streets, any fæcal or

* See p. 19.

offensive or noxious matter or liquid other than stable manure, whether such matter or liquid shall be in course of removal or carriage from within or without or through the district, shall not, for the purposes of such removal or carriage, use or cause to be used any vessel, receptacle, cart or carriage, which is not properly constructed and covered so as to prevent the escape of any such matter or liquid.

Construction of carts, etc.—Clause 7 (*a*) and (*b*) of the model byelaws of the Local Government Board (p. 20) deals with the construction of carts, etc., used for the conveyance of “filth, dust, ashes, or rubbish.” As to the meaning of the term “filth,” see note on p. 14. It is to be observed that clauses 2 and 3 of the present series are not limited to “filth,” but (following the terms of s. 26 (1) of the Public Health Acts Amendment Act, 1890) apply to the removal of “any faecal or offensive or noxious matter or liquid.” The note on p. 21 in connection with the clause of the Local Government Board may be referred to.

For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage.

4. Every person who, in the removal or carriage through the streets of any faecal or offensive or noxious matter or liquid, whether such matter or liquid shall be in course of removal or carriage from within or without or through the district, shall cause or suffer any such matter or liquid to be dropped or spilt on any footway, pavement, or carriageway, shall forthwith cause the place whereon such matter or liquid shall have been dropped or spilt to be thoroughly cleansed.

Cleansing of streets if filth dropped or spilt.

Removal of matter dropped or spilt in course of removal.—As to the scope of this byelaw, and the necessity for its enforcement, see respectively the note on clause 3 above, and note on the model byelaw of the Local Government Board, p. 21, *ante*.

Penalties.

5. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of five pounds.

Penalties.

Provided nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence, may, if they think fit, adjudge the payment, as a penalty, of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties, and proceedings for recovery.—See note on clause 16 in the model series of the Local Government Board, p. 30. Provision

for “continuing offences” seems unnecessary and inappropriate in the case of the present series. As to the recovery of penalties, see s. 251 of the Public Health Act, 1875, and notes thereon in Lumley’s Public Health, 5th ed., p. 333.

Confirmation of the byelaws.—Section 9 of the Public Health Acts Amendment Act, 1890, renders applicable to byelaws under s. 26(1) of the Act, the provisions contained in ss. 182 to 186 of the Public Health Act, 1875, and any enactment amending or extending those sections. The byelaws, therefore, require confirmation by the Local Government Board. See note at the head of the present series as to the submission of proposed byelaws to that Board, in the first instance in draft.

SERIES IV., IVa., Etc.

NEW STREETS AND BUILDINGS.

ALTERATION OF BUILDINGS.

DRAINAGE OF EXISTING BUILDINGS.

(PUBLIC HEALTH ACT, 1875, s. 157; PUBLIC HEALTH ACTS
AMENDMENT ACT, 1890, s. 23.)

NEW STREETS AND BUILDINGS.

MEMORANDUM

*of the Local Government Board as to Model Byelaws (Series IV.)
with respect to New Streets and Buildings.*

SECTION 157 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), provides that “every urban authority may make byelaws with respect to the following matters ; (that is to say,) 38 & 39 Vict.
c. 55, s. 157.

- “ (1.) With respect to the level, width and construction of new streets, and the provisions for the sewerage thereof :
- “ (2.) With respect to the structure of walls, foundations, roofs, and chimneys of new buildings, for securing stability and the prevention of fires, and for purposes of health :
- “ (3.) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings :
- “ (4.) With respect to the drainage of buildings, to water-closets, earthclosets, privies, ashpits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

“And they may further provide for the observance of such byelaws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws :

“Provided that no byelaw made under this section shall affect any building erected in any place (which at the time of the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the

passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment.

“The provisions of this section . . . shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.”

In connection with the subject of byelaws with respect to new streets and buildings the two following sections (158, 159) are important.

Sections 158 and 159 are in these terms:—

38 & 39 Vict.
c. 55, s. 158.

(Section 158.) “Where a notice, plan, or description of any work is required by any byelaw made by an urban authority to be laid before that authority, the urban authority shall, within one month after the same has been delivered or sent to their surveyor or clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month, without such approval, and is in any respect not in conformity with any byelaw of the urban authority, the urban authority may cause so much of the work as has been executed to be pulled down or removed.

“Where an urban authority incur expenses in or about the removal of any work executed contrary to any byelaw, such authority may recover in a summary manner the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

“Where an urban authority may, under this section, pull down or remove any work begun or executed in contravention of any byelaw, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any byelaw to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the byelaw shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the byelaw was broken.”

(Section 159.) “For the purposes of this Act, the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building.”

38 & 39 Viet.
c. 55, s. 159.

In connection with the byelaws authorised by section 157 (3 and 4), and with the interpretation of the important proviso in that section, the attention of the sanitary authority may be usefully directed to the cases of *Tucker v. Rees*, 7 Jur. (N.S.) 629, and *Burgess v. Peacock*, 16 C. B. (N.S.) 624; 10 L. T. (N.S.) 617.

Tucker v.
Rees.
Burgess v.
Peacock.

JOHN LAMBERT,
Secretary.

Local Government Board,
25th July, 1877.

REVISE OF 1904.

With the view of making the series somewhat less stringent and more elastic in its requirements, there have been introduced some additional and substitutional clauses and provisoes, which, although not hitherto included in the model code as printed, have been generally adopted by local authorities in recent years.

Revised
Series.

Certain modifications and amendments have been made in the details of some of the model clauses.*

S. B. PROVIS,
Secretary.

Local Government Board,
February, 1904.

Local authorities competent to adopt the model byelaws.—Byelaws with respect to new streets and buildings comprising all the clauses of the model series, can be made only by an urban district council, or by a rural district council, invested by an order of the Local Government Board under s. 276 of the Act, with the powers of an urban authority under s. 157. A

* As indicated in the Preface, the extent of the revision “of 1904” is much greater than would, perhaps, appear from this paragraph. The following are some only of the new and altered clauses in the revised series, viz., clauses 1—3, 9, 11—14, 18, 20—23, 25, 27, 28, 34, 47, 52, 53, 55, 60—62, 65, 66, 71—73, 87 and 92. It will be admitted that many of the alterations are of great importance. There are also some noteworthy omissions. For example, no byelaws similar to the clauses numbered 24, 35 and 44 in the old model series appear in the revised code. It should be added that this list is not exhaustive.

rural district council, however, may by adopting so much of Part III. of the Public Health Acts Amendment Act, 1890, as may be adopted by them under ss. 3 and 50 of that Act, obtain power to make byelaws with respect to new buildings dealing with the following matters only :—

- The structure of walls and foundations of new buildings for purposes of health (clauses 11 to 13, 20, and 29 of the model series) ;
- The sufficiency of the space about buildings to secure a free circulation of air, and the ventilation of buildings (clauses 52 to 58) ;
- The drainage of buildings, waterclosets, earthclosets, privies, ashpits and cesspools in connection with buildings, and the closing of buildings or parts of buildings unfit for human habitation, and prohibition of their use for such habitation (clauses 59 to 93) ;
- The giving of notices, the deposit of plans and sections by persons intending to construct buildings, inspection by the council, and the removal, alteration, or pulling down of any work begun or done in contravention of the byelaws (clauses 95 to 98 and 100).

The same limited power to make byelaws as to new buildings could be obtained by a rural district council who were not desirous of adopting Part III. of the Act of 1890, by applying to the Local Government Board under s. 5 of the Act, to issue an order declaring ss. 23 (3) and 25 to be in force in their district, or in a specified part thereof. Where any such application is made, or where an application for “urban powers” under s. 157 of the Act of 1875 is made by a rural district council, the instructions in the Introduction should be observed. In either of the above cases the following clauses of the model series must be omitted, viz., clauses 4—10, 14—19, 21—28, 30—51, 94, and 99.

All references to “streets,” wherever they occur in the remaining clauses, must also be omitted.

It will be seen, however, that a special series of model byelaws has been prepared by the Local Government Board for adoption by rural district councils possessing only these limited powers (pp. 172 to 196, *post*).

Additional byelaws under 53 & 54 Vict. c. 59.—Reference has been made in the previous note to certain subjects upon which byelaws are authorised by s. 157 of the Public Health Act, 1875, which can be dealt with by rural district councils adopting Part III. of the Public Health Acts Amendment Act, 1890, and in regard to which provisions will be found in the general model code. Section 23 of the Act of 1890, however, confers upon the local authority of any district in which it is in force (whether by adoption or otherwise) the additional power of making byelaws on the following subjects :—

- (a) The keeping waterclosets supplied with sufficient water for flushing ;
- (b) The structure of floors, hearths and staircases, and the height of rooms intended to be used for human habitation ;
- (c) The paving of yards and open spaces in connection with dwelling-houses ;
- (d) The provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters ;
- (e) The prevention of buildings, which have been erected in accordance with byelaws made under the Public Health Acts, from being altered in such a way that if at first so constructed they would have contravened the byelaws.

In this list, paragraphs (*a*) and (*e*) relate to matters in regard to which "every local authority" can, by adopting Part III. of the Act, obtain power to make byelaws. Paragraph (*b*) likewise, so far as it relates to the structure of floors and the height of rooms to be used for human habitation, applies to every local authority adopting Part III. of the statute. The remaining subjects—those referred to in paragraphs (*c*) and (*d*), and the structure of hearths and staircases referred to in paragraph (*b*)—can only be dealt with by an urban district council adopting Part III., or a rural district council invested with the necessary urban powers. For a complete series of model clauses recommended for adoption under s. 23 of the Act, see pp. 202 to 223 of the present work. In a note appended to the 8vo edition of the series framed by the Local Government Board for the purposes of s. 157 of the Public Health Act, 1875, the Board observe that they "have not issued any model series of byelaws which may be made under s. 23 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59); but forms which would . . . be of service to a local authority proposing to embody such byelaws in the series [framed by the Board] can be obtained from the publishers." (See notes on pp. 73, 112, 123, 155, 163 and 219, indicating where, in a combined series, the Editors' clauses should come in.)

Streets and buildings to which the byelaws apply.—It will be observed that, as regards both s. 157 of the Public Health Act, 1875, and s. 23 of the Public Health Acts Amendment Act, 1890, the power of making byelaws as to streets is limited to the case of "new streets." As regards buildings, it will be seen that, while the provisions of the former section, relating to the structure of walls, foundations, roofs and chimneys, and the deposit of plans and sections, are limited to new or intended buildings, the rest of the section applies generally to "buildings." So far as the model series is concerned, however, the byelaws as to buildings are limited throughout to "new buildings," except as regards the clauses relating to water-closets, earthclosets, privies, ashpits and cesspools in connection with buildings, and the closing, etc., of buildings unfit for human habitation. But although the statute authorises byelaws on some matters to be made so as to affect existing buildings—and the model clauses as to waterclosets, etc., are in fact so drawn—the proviso to s. 157 has the effect, so far as regards buildings existing at the time when the byelaws are made, of limiting the application of any byelaws made under the section to such buildings as may have been erected (in the case of a place which, at the time of the passing of the Act—*i.e.*, 11th August, 1875—was included in an urban sanitary district) before the Local Government Acts* came into force in such place, and (as regards places which, at the time of the passing of the Act, were not included in any urban sanitary district) before such places became constituted or included in an urban district, or were made subject to this enactment by virtue of any order of the Local Government Board.

In connection with this proviso, the cases of *Tucker v. Rees*, and *Burgess v. Peacock*, which are referred to in the memorandum of the Local Government Board (p. 41), may now be considered.

In *Tucker v. Rees* (1861), 7 Jur. (N.S.) 629; 25 J. P. 789, a local board of health had made a byelaw under s. 34 of the Local Government Act, 1858 (21 & 22 Vict. c. 98), that wherever any open space had been left belonging to any building, such space should never afterwards be built upon without

* See definition in Schedule V. to the Public Health Act, 1875.

the consent of the board or some committee appointed and authorised by the board, and without leaving an open space belonging to such building of a specified size and dimensions. And it was held that if the byelaw applied to open spaces belonging to old buildings, it was bad, as exceeding the powers conferred by s. 34. It is not quite clear what was meant by “old buildings” here; but seeing that the byelaw in question was not confined to buildings erected after the constitution of the district, as it should have been by reason of the proviso to s. 34 of the Local Government Act, 1858, but in terms applied to “any building,” the better view would seem to be that this was the real ground of the decision, and not that the byelaw could not properly have applied to *any* building existing at the date when the byelaws were made. This view would be consistent with the decision in *Burgess v. Peacock* (1864), 16 C. B. (N.S.) 624; 10 L. T. (N.S.) 617; 10 Jur. (N.S.) 803, where it was held that s. 34 of the Local Government Act, 1858, did not authorise a local board of health to make any byelaw with respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation, so as to affect premises erected prior to the date of the formation of the district of the local board.

The provision in s. 23 (2) of the Public Health Acts Amendment Act, 1890, must next be referred to. This sub-section enacts that any byelaws under s. 157 of the Act of 1875, with regard to the drainage of buildings, and to waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings, may be made so as to affect buildings erected before the times mentioned in the said section. The same provision is made with reference to byelaws under the Act of 1890, as to keeping waterclosets supplied with sufficient water for flushing. A clause (No. 92 of the revised model series issued by the Local Government Board) which may be adopted in any case where s. 23 (2) of the Act of 1890 is in force, and by which the byelaws as to waterclosets, etc., may be extended so as to apply to all existing as well as all new buildings, will be found on p. 154.

A series dealing with the drainage of existing buildings is printed on pp. 224 to 229.

Besides the limitations as to time prescribed by s. 157, the section contains an express exemption in favour of buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

This exemption does not, however, enable a railway company to build cottages for their servants without complying with the byelaws, for such buildings are not “used for the purposes of the railway” within the meaning of the proviso (*Manchester, Sheffield, and Lincolnshire Rail. Co. v. Barnsley Union* (1892), 56 J. P. 679; 67 L. T. (N.S.) 119).

Some further exemptions are provided for by clause 2 of the Model Byelaws.

What is a “new street.”—The word *street* in s. 157 is used with reference to *new streets*, and was held to mean not only the roadway but the roadway with the houses. In *Baker v. Mayor, etc. of Portsmouth* (1877), 3 Ex. D. 4; 37 L. T. (N.S.) 381; 25 W. R. 677; affirmed in the Court of Appeal (1878), 3 Ex. D. 157; 47 L. J. Ex. 223; 37 L. T. (N.S.) 822; 26 W. R. 303; 42 J. P. 278, BRAMWELL, L.J., said: “I have come to the conclusion that the words of sub-section (1) ‘with respect to the level, width, and construction of new streets,’ include the construction of the buildings,

and the buildings themselves and front gardens, or whatever else is at the side of the roadway. I have come to this conclusion, not upon any authority, for I cannot see that any authority has any bearing upon the matter, except to show that the word *street* may have such a meaning, but because it is the right meaning of the words." A similar interpretation had been put upon the term as used in a local Act in *Galloway v. Corporation of London* (1866), L. R. 1 H. L. 34; 35 L. J. Ch. 477; 12 Jur. (N.S.) 747; 14 L. T. (N.S.) 865; 30 J. P. 580, though it was said, in a later case decided upon a different section of the same Act, that this was not the *primâ facie* meaning of the word, and it was accordingly held that the word, as used in the last-mentioned section, did not include the houses (*London, Chatham, and Dover Rail. Co. v. Mayor, etc. of London* (1868), 19 L. T. (N.S.) 250). An urban authority made a byelaw under the Public Health Act, 1875, directing that all new streets should be of a width of not less than ten feet. Certain ways existed communicating with the backs of houses, and used by the urban authority, who did the scavenging of the town, for the purpose of obtaining access to privies and ash-pits in order to remove the contents thereof. Plans were submitted for approval to the urban authority, showing ways, such as are above described, of the width of six feet; and the urban authority, acting under the byelaw, refused to approve such plans. It was held, discharging a rule for a *mandamus* to compel the approval of the plans, that the ways in question were "passages" within the meaning of s. 4 of the Public Health Act, 1875, and, therefore, streets (*R. v. Goole Local Board*, [1891] 2 Q. B. 212; 60 L. J. Q. B. 617; 64 L. T. (N.S.) 595; 30 W. R. 608; 55 J. P. 535). A *cul-de-sac* may be a street and public highway (*Souch v. East London Rail. Co.* (1873), L. R. 16 Eq. 105; 42 L. J. Ch. 477; 21 W. R. 590; 37 J. P. 644). So also a highway, one end of which has been legally stopped (*R. v. Burney* (1871), 39 J. P. 599; 31 L. T. 828). But a way ceases to be a public highway when access at both ends has been cut off legally (*Bailey v. Jamieson* (1876), 1 C. P. D. 329; 34 L. T. (N.S.) 62; 24 W. R. 456; 40 J. P. 486). The case of *Baker v. Mayor, etc. of Portsmouth*, *supra*, was approved by the House of Lords in *Robinson v. Barton Local Board* (1883), 8 App. Cas. 798; 53 L. J. Ch. 226; 50 L. T. (N.S.) 57; 32 W. R. 249; 48 J. P. 276, where it was held that a country lane, which had long been a *street* within the meaning of the definition, might become a *new street* when houses came to be built by the side of it. This had already been decided under the Metropolis Management Acts in *Pound v. Plumstead Board of Works* (1871), L. R. 7 Q. B. 183; 41 L. J. M. C. 51; 25 L. T. (N.S.) 461; 20 W. R. 117; 36 J. P. 468; *Dryden v. Overseers of Putney* (1876), 1 Ex. D. 223; 34 L. T. (N.S.) 69; 40 J. P. 263.

It has been stated that the question whether a place is a street is a question of fact only after it has been determined in what sense the word *street* is used in the particular case under consideration. (See *Eccles v. Wirral Union* (1886), 16 Q. B. D. 107.) But it is always a question of fact whether a place already a street, as defined in s. 4 of the Public Health Act, 1875, has become a new street (*R. v. Dayman*, 7 E. & B. 672; 26 L. J. M. C. 128; 3 Jur. (N.S.) 744; 22 J. P. 39; *R. v. Fullford*, 33 L. J. M. C. 122; 10 L. T. (N.S.) 346; 10 Jur. (N.S.) 522; 12 W. R. 715; 28 J. P. 357; *R. v. St. Mary, Islington*, E. B. & E. 743; 22 J. P. 383; *St. Mary, Islington v. Barrett*, L. R. 9 Q. B. 278; 43 L. J. M. C. 85; 30 L. T. (N.S.) 11; 38 J. P. 198; *Dodd v. Vestry of St. Pancras*, 34 J. P. 517; *Bowles v. St. Mary, Islington*, 39 J. P. 757; *R. v. Shiel*, 50 L. T. (N.S.) 590; *Wilson v. St. Giles, Camberwell (Vestry of)*, [1892] 1 Q. B. 1; 61 L. J. M. C. 3; 65 L. T. (N.S.) 790;

40 W. R. 41; 56 J. P. 167; 8 T. L. R. 20; *St. Giles, Camberwell (Vestry of) v. Crystal Palace Co.*, [1892] 2 Q. B. 33; 61 L. J. Q. B. 802; 66 L. T. (N.S.) 840; 40 W. R. 648; 57 J. P. 5; 8 T. L. R. 233). And see also *North London Rail. Co. v. St. Mary, Islington* (1873), 27 L. T. (N.S.) 672; 21 W. R. 226; 37 J. P. 341; *Robinson v. Barton Local Board*, *supra*, and the cases cited in the note below as to what amounts to laying out a new street. It is to be observed, however, that the court will inquire whether there has been *any* evidence to justify the finding of the justices (*Williams v. Powning* (1883), 48 L. T. (N.S.) 672; *Midland Rail. Co. v. Watton* (1886), 17 Q. B. D. 30; 34 W. R. 524; 55 L. J. M. C. 99; 54 L. T. (N.S.) 482; 50 J. P. 405).

What is “aying out a new street.”—In *Robinson v. Barton Local Board* (1882), 21 Ch. D. 632, Sir GEORGE JESSEL, M.R., says: “There are two ways in which a street may come into existence where there was no street before. A person may take a grass field or a country lane (for in my opinion it makes no difference whether or not there was a public highway and lane or footpath existing before which is thrown into the street and is utilised, or whether there was nothing but a mere plot of grass land out of which a new boundary is made), he may take it and build continuous lines of houses so as to form what is commonly known as a street. When I say continuous lines, I do not mean that there must be no breaks or intervals, but there must be a certain degree of continuity. A new street may arise in another way, and that is where it is not from the first laid out as a street in a formal manner, but may be considered to grow up, so to say, of itself. This often happens where there is an existing highway and people build houses along the sides of that highway, so that, without any intention of laying out a street, the street grows. When does it become a street? At some time or other it becomes a street, and as soon as it does so it is a new street, and not the less a new street because some of the houses were built before it was a street.” These are substantially the two ways in which new streets come into existence. It is, however, frequently difficult to ascertain the exact time at which they do so. In *Pound v. Plumstead Board of Works*, and *Northbrook v. Plumstead Board of Works* (1871), L. R. 8 Q. B. 183; 36 J. P. 468, it was laid down that the words “new street,” as used in the Metropolis Management Acts, includes a new street in the ordinary and popular sense of the term, and therefore a country lane, which was bounded by hedges and fields, and was repaired by the parish time out of mind, becomes a new street within the meaning of those Acts when houses are built along the sides of the lane. The same point was substantially decided in *Dryden v. Putney Overseers* (1876), 1 Ex. D. 223; 34 L. T. (N.S.) 69; 40 J. P. 263. Though these cases were decided under the Metropolis Management Acts, the principle laid down is equally applicable to cases arising under the Public Health Acts.

In *Williams v. Powning* (1883), 48 L. T. (N.S.) 672; 47 J. P. 486, the appellant built six cottages upon a piece of garden ground, in a lane six feet wide and 250 feet long, which was admitted to be a street within the meaning of the Public Health Acts. The justices convicted the appellant for laying out a new street not of the width required by the byelaws. It was held that the justices were not justified in coming to the conclusion that he was laying out a new street, or that he had converted an old street into a new street. “In building the cottages,” HAWKINS, J., observes: “I think the appellant must be taken to have built them simply to make use of

his own land, and without any intention of converting it into a new street. There is nothing to justify the magistrates in coming to the conclusion that this lane became a new street by the act of the appellant alone, without the aid of the other owners. Nor is there any evidence that the owner of the opposite side of the lane has any intention to use his land for building purposes. Therefore, I have to consider whether by the mere fact of the appellant having built six cottages on one side of the street, and having no power or control over the remaining portions of the street he has converted it into a new street. I think that he has not." The building of the six cottages was not alone sufficient evidence of an intention to lay out a new street; but if there had been evidence of other building operations being about to be commenced in the lane, such additional evidence might have been sufficient to show a laying out of a new street (cf. *Gozzett v. Maldon Urban Authority*, *infra*).

Where, on each side of a public highway called New Lane, a considerable number of houses not all contiguous had been built during the ten years preceding the action, and the appellant proposed to build a row of nine houses fronting upon that public highway, but the local authority objected to his right to do so, asserting the right to remove those houses if built otherwise than in the line set back from the roadway which they had defined, the House of Lords held that New Lane was a "new street" within the meaning of the Public Health Acts; that the local authority was not entitled to disapprove of the appellant's new buildings on the ground that the intended building line was too near the roadway of New Lane, and that the local authority was not entitled to pull down the new buildings so in the course of erection. (*Robinson v. Barton Local Board* (1883) 8 App. Cas. 798; 53 L. J. Ch. 226; 50 L. T. 57; 32 W. R. 249; 48 J. P. 276). It will be seen that the object of the local authority here was, if possible, to prescribe a building line under the supposed powers given them under their byelaws. That, of course, the local authority cannot do. If they want to do that, they must look to the Public Health (Buildings in Streets) Act, 1888. What is important in the *Barton Case* in this connection is the deduction of the House of Lords that an old highway such as New Lane may become a new street. As Lord SELBORNE observed, "In the natural and popular sense of the word 'street,' or the words 'new street,' I should certainly understand a roadway with buildings on each side (it is not necessary to say how far they must, or may be continuous or discontinuous); and by 'new street,' a place which before had not that character, but which by the construction of buildings on each side, or possibly on one side, has acquired it."

In *Roberts v. Richards* (1890), 54 J. P. 693, the respondent bought some land on one side of a road which was not a highway repairable by the inhabitants at large, and submitted to the local authority a plan showing an intention to erect some stables and other buildings, which the local authority refused to approve. The respondent afterwards erected on his land a substantial wall (without any door or any opening in it) of stone and mortar, 171 feet long and 8 feet high, and within 7 feet 3 inches of the front wall of the row of seven dwelling-houses, which had been erected about nine years previously, and extending the whole length of, and facing the roadway in front of the said houses, and thus reducing the width of the roadway to seven feet three inches. The justices found as a fact that the erection put up by the respondent formed a new street, and that he was guilty of a breach of the local byelaws as to the width of the new street. Lord ESHER in his judgment said: "The first point is that the respondent did not construct a new street. No doubt somebody

else did part of it; but he contributed a wall 170 feet long, and now he wants to say that he only constructed something on one side of it. I think that what the respondent did was to construct a new street in the circumstances."

In *Gozzett v. Maldon Urban Authority* (1894), 1 Q. B. 327; 70 L. T. (N.S.) 414; 58 J. P. 229, the appellant was the lessee of a piece of ground, together with a right of way over the adjoining road, which was fifteen feet wide for a distance of more than 100 feet. The appellant commenced to build two houses on the ground of which he was lessee, but did not widen the road, over which he had a right of way, to 36 feet, the width required by the byelaws for a new street. There was a notice board advertising adjoining land for sale for building purposes. The justices found that the commencing to build the two houses and the other facts proved, sufficiently constituted the laying out a new street. It was, however, held on appeal that there was no sufficient evidence of laying out a new street.

In *St. George's Local Board v. Ballard* (1895), 1 Q. B. 702; 64 L. J. Q. B. 547; 72 L. T. (N.S.) 345; 43 W. R. 409; 59 J. P. 131; 11 T. L. R. 263, there was a lane or roadway about 8 feet wide and 175 feet long, which ran at right angles with the main road, and at the other end formed a *cul-de-sac*. On one side of this lane, and fronting it, was a row of houses called Providence Place, which had existed for many years; on the other side was a strip of land which had formerly been used for gardens for Providence Place. The defendant had recently bought this piece of land and laid before the local authority plans of three houses, which he proposed to build on a portion of this land. The local authority refused to approve the plans on the ground that the proposed buildings were in contravention of their byelaws with regard to the laying out of new streets. The buildings which the defendant proposed to build were a row of three houses intended for shops fronting to and entered from the main road. The side of one of the houses, which was at the corner where the lane joined the main road abutted upon the lane, the wall of the house, together with that of a garden attached to it, extending along the lane to a distance of 80 feet from the main road. A width of 8 feet only was left between this wall and the houses in Providence Place. The plan showed that the corner house had no shop window fronting the lane. At the trial the judge found as a fact that it was not shown that the defendant was laying out a new street. The Court of Appeal refused to interfere with the finding of fact. *ESHER, M.R.*, said: "The judge has found as a fact the defendant was not, by what he did, beginning to lay out a new street. The question is one of fact, and we are asked to overrule the finding of the judge upon that question of fact. If it could be shown that this house, which the defendant is beginning to build at the corner of the lane, was the beginning of a row of houses which he intended to build along the lane opposite to Providence Place, the case might be brought within the byelaw. But the facts do not appear to me to show any such intention on his part. All that he has done with regard to the lane is to begin to build this one house at the corner, one side of which abuts upon it. . . . The defendant has done nothing, so far as I can see, from which it can fairly be inferred that he has any intention of building more houses in the lane. I do not think that it can be inferred from the mere fact of his beginning to build this one house that he is laying out a new street along the line of the lane." *RIGBY, L.J.*, said: "It is suggested that the defendant may build other houses along the side of the lane beyond this house. We do not know what he intends to do with the rest of his land, and I do not think we are at liberty to assume that he has any intention of doing what is suggested."

Where a country lane, defined for the greater part of its length (581 yards) by hedges, had, extending for 485 feet along one side of it, buildings belonging to brickmakers, who were proposing to erect on the other side of the lane, opposite to their existing buildings, new buildings (not dwelling-houses), which would extend for 233 feet along the lane, it was held that by the erection of these new buildings the lane between them and the old buildings would become a street. "What," said NORTH, J., "the defendants are doing is defining the line of the road—I do not use that word in a technical, but in a general sense—defining the road along which people are to pass, by erecting a wall and altering the state of things so that there will be a wall on each side limiting the width of the road to 21 or 22 feet. I think that that which will be the line of road between these walls will be a 'new street'" (*Attorney-General v. Rufford* (1899), 1 Ch. 537; 63 J. P. 232).

In *Bushell v. Creer* (1900), 64 J. P. 600, there was a private road over which certain occupiers had rights of way. The appellant was not the owner of the road. The north side had been for many years defined by a wall for the whole length of the road. On the south side was a wooden fence. The roadway between was about 20 feet wide and the length about 160 yards. The appellant removed the wooden fence and erected a wall on its site, and proposed to build a house on his land in the road. The justices were of opinion that this was laying out a new street. On appeal it was held that there was no evidence of laying out a new street.

In *Armstrong v. The London County Council* (1900), 1 Q. B. 416; 81 L. T. (N.S.) 638; 48 W. R. 367; 64 J. P. 197, the appellant commenced to erect buildings which were to consist of blocks of flats in the form of a quadrangle. In the centre of the quadrangle there was to be a garden, around which a road was to run to afford access to the flats. Blocks of flats were to be erected on each side of the road, the total length of which was to be about 600 feet. It was intended to keep the road private, and to erect gates at the point where it joined the public road, and to keep a porter to shut and open the gates. It was held that the road was a "street" within the meaning of the London Building Act, 1894, s. 7, and that the appellant had been properly convicted for having commenced "to form or lay out a street" without having first obtained the consent of the London County Council.

Where the boundary between two adjoining districts ran down the centre of a highway, which had in fact been a street before the Metropolis Management Act, 1855, came into force, although on one side of it there were only a few houses, it was held that the local authority, with jurisdiction on the side where there were only the few houses, were not entitled to treat it as a new street. (*Clerkenwell Vestry v. Edmondson* (1902), 1 K. B. 336; 86 L. T. (N.S.) 137; 71 L. J. K. B. 198; 65 J. P. 324).

In *Deronport v. Tozer* (1903), 1 Ch. 759; 72 L. J. Ch. 411; 88 L. T. 113; 52 W. R. 6; 67 J. P. 269; 1 L. G. R. 421, the defendants owned a piece of land which abutted upon two highways. In pursuance of a building scheme, they erected on this land several houses. They did not remove the fences on either side of the land; but made necessary openings here and there so as to provide means of entrance and exit to the houses. They did not alter or interfere with the highways in any way. It was held that the defendants were not laying out, or intending to lay out the highways as new streets within the meaning of the byelaws.

Where an old street repairable by the inhabitants at large, and having houses on one side of it, is widened by the addition of a strip of substantial

width on the other side, this strip itself becomes a new street (*Property Exchange, Limited v. Wandsworth Board of Works* (1902), 2 K. B. 61; 86 L. T. (N.S.) 481; 71 L. J. K. B. 515; 61 J. P. 435; following *Richards v. Kessick* (1888), 57 L. J. M. C. 48.

In *Reg. v. Shiel* (1880), 50 L. T. (N.S.) 590, the question was whether a *mandamus* should issue to the magistrate, compelling him to raise the point as to whether a certain road was or was not a new street. There was a lane 340 feet long; there were no buildings on either side of it, except four houses on one part of it; and the lane was bounded on the north and south by back gardens, and the backs and sides of houses. The magistrate considered that the lane was not a new street, that there never was any intention on the part of any one to make it into a street, and that it was a mere back lane, in which, about two years before, four houses had been built. He held that the lane was neither a street within the Metropolis Management Acts, nor a new street, and refused to state a case. The court refused to issue a *mandamus* to compel him to do so.

As to whether the actual builder, or the building owner, is the person who “lays out” the new street see *Sunderland (Mayor of) v. Brown*, (1880) 44 J. P. 831, and p. 68, *post*. See also *London Rail. Co. v. St. Mary, Islington* (1873), 27 L. T. (N.S.) 672; 21 W. R. 226; 37 J. P. 341; *Vestry of St. Mary, Butterssea v. Palmer* (1897), 1 Q. B. 220; 60 J. P. 774; 86 L. J. Q. B. 77; 75 L. T. (N.S.) 362; 13 T. L. R. 20; 45 W. R. 110.

What is a “building.”—In *Fielding v. Rhyl Improvement Commissioners* (1878), 3 C. P. D. 272; 38 L. T. (N.S.) 223; 26 W. R. 881; 42 J. P. 311, DENMAN, J., said that “the word ‘building’ *primâ facie* means every structure that could in any sense be called a building, even if erected for a mere temporary purpose.” But for the purposes of the Public Health Acts the word is not to be used in this extended sense. Regard must be had to the object and purpose of the building and the object of the byelaws. The decisions quoted under the paragraph “What is a ‘new building’” illustrate this. In *Slaughter v. Mayor of Sunderland* (1891), p. 52, *post*, VAUGHAN WILLIAMS, J., defined “building” as meaning “a structure which has, or is adapted for including in its composition some one of the features which are dealt with in the byelaws.”

What is a “new building.”—By s. 159 of the Public Health Act, 1875, it is enacted: “For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building.” The section, it will be observed, does not exhaust the definition of a new building; it only describes what shall be considered to be a new building in particular cases. It does not provide for the conversion of a dwelling-house into a house for other purposes, such as a factory or hall for public meetings, although it provides for the conversion of a house into a dwelling-house. It is probably intended that such a conversion would not amount to the erection of a new building under the Public Health Act or under the byelaws. If this construction be correct, there seems to be no means of controlling or preventing such a conversion,

although the converted premises would be unsuited for the purposes intended.

Subject to s. 159 of the Public Health Act, 1875, it may be said that the question whether in any particular case a "new building" has been erected or commenced, is one for the decision of the justices before whom any proceedings may be taken for the enforcement of the byelaws. The mere alteration of a building, even where the alterations are extensive, cannot be dealt with by means of byelaws under s. 157 of the Act of 1875. (As to this, see s. 23 (4) of the Public Health Acts Amendment Act, 1890.) In certain cases the nature and extent of the alterations may be such as to bring the work (independently of s. 159) within the scope of the byelaws affecting new buildings. But, as before stated, this is a matter for the decision, in the first instance, of the justices. "The question," said Lord COLERIDGE, C.J., in *James v. Wyrrill* (1884), 48 J. P. 725; 51 L. T. 237, "whether a building is a new building or not, has been decided over and over again to be a question of fact: it is a question of degree. For instance, if a building were nearly all taken away and then rebuilt, it clearly would be a new building; on the other hand, it is quite clear that by a small addition of, say, a door, the building would not therefore become a new building. Between these two extreme cases there may be thousands of cases, and it would be impossible to give a definition in each particular case as to what is, or is not, a new building; and it must be left to the discretion of each judge to decide for himself what is a new building. So that the question is and must be a question of fact."

Where certain premises were used and occupied as a public-house, known as the "Old Swan," and were partly pulled down to the ground, the old garden wall dividing it from the adjoining premises had in some places been taken down to the foundation and rebuilt with a suite of rooms erected above it, and the structure erected was a comfortable, good-looking dwelling-house, which before it was not, and the magistrate found that the structure was a new building, the court refused to disturb the finding on the ground that it was a question of fact (*James v. Wyrrill, supra*).

A stable in a yard at the rear of certain premises was pulled down and re-erected, of smaller superficial dimensions, but somewhat higher, in another part of the same yard, the old materials—with some addition, and the boundary walls of the yard—being made use of in such re-erection. The court held, reversing the decision of the justices, that this was a "new building" within the corresponding provisions of the Local Government Act, 1858 (21 & 22 Viet. c. 98), s. 34, and byelaws made thereunder (*Hobbs v. Dance* (1873), L. R. 9 C. P. 30; 43 L. J. M. C. 21; 29 L. T. (N.S.) 687; 22 W. R. 90; 38 J. P. 56). The court was not precluded from disturbing the decision of the justices, because the point reserved was one of law for the opinion of the court. KEATING, J., said: "I am of opinion that the magistrates did not intend to refer to us a question of fact. What they have referred to us is whether, looking at the Act of Parliament and the byelaws, the structure in question was a new building within the meaning of the Act. This is a thing that is quite within the mischief of the Act; and the facts stated do, in my opinion, show that it is a new building within the Act." BRETT, J., said: "In substance they say that, according to their interpretation of the Act, this was not a new building within it; and they ask us if that is a correct interpretation." DENMAN, J., said: "If the magistrates meant to say that they found as a fact that the building in question was not a new building, I should incline to think that we ought not to interfere, though I might have differed from them

in opinion. But that is evidently not what they meant to say. They meant to say that such a new building as they have described could not in point of law be a new building. I think it could."

Where a person was charged under the West Hartlepool Improvement Act, 1870, with unlawfully erecting a new building without notice to the local board, the building was made of wood, thirty feet long and thirteen feet wide, and was brought along the street on wheels and put at the corner of a new street; it had spouts and a down corner, had a supply of gas, and was used as a butcher's shop; it was held that the justices were right in treating this as a new building, and subject to the ordinary requirements of new buildings (*Richardson v. Brown* (1885), 49 J. P. 661). In considering whether a structure of this kind is a new building, the object of erecting or using it must be considered. Lord COLERIDGE, C.J., said (*ibid.* p. 662): "The question is for what purpose is the building there. I think it is not at all intended to be used merely as a caravan, but to all intents and purposes it is a house or building and is so used, and the wheels have been adopted evidently with the intention of evading the Act of Parliament."

Where the proprietor of a house erected before the constitution of the local board, which house had a coach-house and stable attached to it, pulled down the coach-house and stable, and erected a building partly thereon and partly on an adjoining piece of land opening into an old back street, the access to the old building being by a covered way, it was held not to be a new building within the meaning of the Local Government Act, 1858, s. 34, but only an addition to an old building (*Shiel v. Sunderland (Mayor of)* (1861), 6 H. & N. 796; 30 L. J. M. C. 215; 25 J. P. 647).

The appellant was convicted of erecting certain structures of brick and mortar upon certain land without giving any notice or delivering any plans. It appeared that structure No. 1 was built with nine-inch walls, and contained two rooms, one of which had a fire-place and chimney. No. 2 consisted of upright walls, some two feet thick, in the form of a square, having an opening at either end, measuring about twelve yards on each side. The appellant had in contemplation the building of a number of cottages in the immediate neighbourhood of such structures; and the first-mentioned structure was for the storing of tools and the general convenience of the workmen proposed to be employed in the erection of such cottages; the other being for the purpose of a brick kiln. Both structures were intended to be pulled down by the appellant upon the completion of the cottages. The court held that the conviction was bad on the grounds that they were only temporary structures and not intended for residential purposes (*Fielding v. Rhyl Improvement Commissioners* (1878), 3 C. P. D. 272; 38 L. T. 223; 26 W. R. 881; 42 J. P. 311).

An advertising company, who were the occupiers of a plot of land within the borough of Sunderland, which plot was already enclosed by a wooden hoarding, raised their boarded walls or hoardings to a height of from thirteen to nineteen feet, and put inside upright timbers, and connected the hoarding on the sides of the ground by cross-pieces which acted as ties. The land within was used for preparing wood for hoardings to be used elsewhere. It was held, on appeal from conviction under a byelaw, that the structure was not a new building, that the byelaws pointed to a building with a roof and capable of affording protection or shelter, and that the word "building" in the byelaw meant some structure containing some feature contemplated by and dealt with in the byelaws (*Slaughter v. Sunderland (Mayor, etc. of)* (1891), 60 L. J. M. C. 91; 65 L. T. 250; 55 J. P. 519; 7 T. L. R. 296).

B. was summoned for building over an open space in his brewery without giving notice and without the approval of the local board, contrary to a byelaw. The building was a boiler substituted for a smaller one, and partly sunk in the ground with a casing of nine-inch brickwork, four feet high, leaving the top of the boiler uncovered. It was held that this was not a new building within the Public Health Act, 1875, s. 157, and the byelaw (*Gery v. Black Iron Brewery Co.* (1891), 55 J. P. 711). SMITH, J., in his judgment, pointed out that all the details in the byelaws were as to "the structure, width, and so forth of walls for stability," and that these matters did not apply to the present structure.

Where a house had been built with a conservatory on the first floor, in accordance with plans duly passed by the sanitary authority, and the respondent subsequently pulled down the conservatory and in its place built a bedroom, raising a portion of one of the external walls of the house for this purpose, the bedroom being of the same height and occupying no more space than the conservatory had done, and the justices dismissed a summons charging the respondent with having begun to erect a building to which the byelaws relating to new buildings applied without giving notice, on the ground that as the bedroom did not occupy any more space than the conservatory, the respondent had not made an addition to an existing building within the meaning of the byelaw; the Queen's Bench Division held that the justices were wrong, and the mere fact that the bedroom did not occupy any greater space than the conservatory for which it was substituted, did not necessarily prevent its being an addition to an existing building. HUDDLESTON, B., however, pointed out, in the course of his judgment, that the justices might have found as a fact that the bedroom was not an addition (*Meadow v. Taylor* (1890), 24 Q. B. D. 717; 54 J. P. 757; 59 L. J. M. C. 99; 62 L. T. 658).

A lean-to conservatory, built of wood and glass, and measuring fifteen feet by nine feet, and not heated in any way, was held, by the Court of Appeal, not to be a "building" within the meaning of a byelaw made under s. 157 of the Public Health Act, 1875, which required every new building to be enclosed with walls constructed of good bricks, etc. (*Hibbert v. Acton Local Board* (1889), 5 T. L. R. 274).

A moveable shelter for a weighing machine at a seaside resort, made of wood and without sanitary, heating, or lighting arrangements, measuring about ten feet long, seven feet broad and ten feet high, and not fixed to the ground; and also a similar structure nine feet long, six feet broad and seven feet high, used for the sale of refreshments, were held not to be "new buildings" within the meaning of a similar byelaw (*Southend-on-Sea Corporation v. Archer; Same v. Romanis* (1901), 70 L. J. K. B. 328; 84 L. T. 264; 65 J. P. 292). In *South Shields Corporation v. Wilson* (1901), 84 L. T. 267; 65 J. P. 294) the local board had made a byelaw under the Local Government Act, 1858, s. 34, that notice of intention to erect a "new building" should be given; and it was held that a wooden structure intended for a stable, and erected in an acre of private enclosed ground, the structure being twenty feet each way, with a slanting roof twelve feet high, was not a new building under the byelaw. As to buildings of a temporary character see *London County Council v. Humphreys* (1894), 2 Q. B. 755; 63 L. J. M. C. 215; 71 L. T. (N.S.) 685; 43 W. R. 13; 58 J. P. 734; 10 T. L. R. 594, and *Dublin Corporation v. Irish Church Missions* (1901), Ir. R. 387.

Sewerage of new streets.—Although byelaws on this subject are authorised by s. 157 of the Public Health Act, 1875, the matter is not dealt with in the

model series. “The reason for this is that the conditions which such byelaws must satisfy are, to so great an extent, dependent upon the varying circumstances of different localities” (Circular, Local Government Board, July 25th, 1877). The Local Government Board, moreover, appear to consider that the matter is not one in regard to which byelaws can usefully be made. “It may be doubted,” they say in the same Circular, “whether any powers which, under such byelaws, may be lawfully assumed by sanitary authorities, will, as regards extent and efficacy, compare with the powers which they derive from the express provisions of the Public Health Act.” (See also s. 41 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), and the provisions of the Private Street Works Act, 1892 (55 & 56 Vict. c. 57).) A provision requiring notice to be given to the surveyor of the district council before covering up a sewer in a new street, will be found in model clause 96.

SERIES IV.—NEW STREETS AND BUILDINGS.

MODEL BYELAWS OF THE LOCAL GOVERNMENT
BOARD UNDER THE PUBLIC HEALTH ACT, 1875.

[NOTE.—*Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a form on which to submit a draft of the byelaws for the Board's preliminary approval.*

BYELAWS

MADE BY THE* WITH RESPECT TO NEW STREETS AND
BUILDINGS IN† .

Interpretation of Terms.

1. In the construction of the byelaws relating to new streets and buildings the following words and expressions shall have the meanings herein-after respectively assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject-matter in which such words or expressions occur; that is to say,—

Interpreta-
tion of terms.

“ District ” means the† :

“ Council ” means the* :

“ Base ” applied to a wall means the under side of the course immediately above the footings, if any, or in the case of a wall wholly carried by a bressummer, the under side of the course immediately above the bressummer :

“ Party wall ” means:

(a) A wall forming part of a building and being used or constructed to be used in any part of the height or

* “ Mayor, aldermen, and burgesses of the borough of . acting by the Council ” ; or, “ Urban [or Rural] District Council of ” ; as the case may be.

† Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district, “ that portion of the Rural District of , which comprises the contributory places of , ” as the case may be.

length of such wall for separation of adjoining buildings belonging to different owners or occupied or constructed or adapted to be occupied by different persons ; or

(b) A wall forming part of a building and standing, in any part of the length of such wall, to a greater extent than the projection of the footings on one side on grounds of different owners :

“ External wall ” means an outer wall of a building not being a party wall, even though adjoining to a wall of another building :

“ Public building ” means a building used or constructed or adapted to be used, either ordinarily or occasionally, as a church, chapel, or other place of public worship, or as a hospital, workhouse, college, school (not being merely a dwelling-house so used), theatre, public hall, public concert room, public ball-room, public lecture room, or public exhibition room, or as a public place of assembly for persons admitted thereto, by tickets or otherwise, or used or constructed or adapted to be used, either ordinarily or occasionally, for any other public purpose :

“ Building of the warehouse class ” means a warehouse, factory, manufactory, brewery or distillery :

“ Domestic building ” means a dwelling-house or an office building, or other out-building appurtenant to a dwelling-house, whether attached thereto or not, or a shop, or any other building not being a public building, or of the warehouse class :

“ Dwelling-house ” means a building used or constructed or adapted to be used wholly or principally for human habitation :

“ Bressummer ” means a wooden beam or a metal girder which carries a wall :

“ Width,” applied to a new street, means the whole extent of space intended to be used, or laid out so as to admit of being used, as a public way, exclusive of any steps or projections therein, and measured at right angles to the course or direction or intended course or direction of such street.

Interpretation of terms.—Where terms used in the byelaws occur also in the Public Health Acts, and are there defined, “ the proper mode of construction ” will be “ to apply the same interpretation to terms used in a byelaw which is applied to the same terms in the Act ” (*Blashill v. Chambers* (1884),

14 Q. B. D. 479; 53 L. T. (N.S.) 38; 49 J. P. 388). Thus, the expression "street" requires no definition in the byelaws, as it is defined by s. 4 of the Public Health Act, 1875.* Where an expression is used in the Act, without being defined therein, the byelaws cannot define what it means. "Building" is an expression of this kind.*

As regards all byelaws made after January 1st, 1890, it is provided by s. 31 of the Interpretation Act, 1889, that expressions used in the byelaws shall have the same meanings as in the Act by which they are authorised to be made. Statutory terms, therefore, should not be defined in the byelaws.

"Base."—This (amended) definition of "base" appeared to be much needed. Previously the definition in the model code referred only to walls having "footings." A "bressummer" (following s. 5 (7) of the London Building Act, 1894), is defined by the amended byelaw as "a wooden beam or a metal girder which carries a wall." (See p. 56.)

Topmost storey.—Formerly the model byelaws contained a definition of the expression "topmost storey." It was required in connection with the clauses as to the thickness of walls. One of these clauses (now numbered 22) has been a good deal altered, however, in the revised edition of the byelaws, and the definition is not wanted in connection with the amended clause. It was formerly required also in connection with the conditions to be fulfilled by a cross wall, in order that it might be treated as a return wall dividing another wall into distinct lengths (see clause now numbered 21). Here again, however, the amendment of the series has rendered the definition unnecessary. The effect of the alterations can be best dealt with in connection with clauses 21 and 22. (See notes on pp. 88 and 92.) It may be added that the numerous references in the former series to the topmost storey, as defined by the byelaws, gave rise to much uncertainty with regard to the application of the rules relating to the thickness of walls. The difficulties experienced, however, will, it is hoped, be found to have been got rid of by the omission of these references, and the amended rules enacted in clause 22.

"Party wall."—The definition here given does not include "party fence walls," and such walls are outside the scope of the byelaws.

This definition is an expansion of the definition contained in s. 3 of the now repealed Metropolitan Building Act, 1855 (18 & 19 Vict. c. 122), which defined "party wall" as applying to every wall used, or built in order to be used, as a separation of any building from any other building, with a view to the same being occupied by different persons. Upon this enactment, FRY, J., in *Knight v. Purcell* (1879), 11 Ch. D. 412, at p. 414, observed as follows: "It appears to me, on reading the definition of a party wall contained in the 3rd section of the Act, that the intention is to define a party wall not by reference to the rights of ownership, which the adjoining proprietors may have in any particular wall in dispute, but by reference to the mode in which the wall is used. It is a question not of title but of user. The object of the Act is to limit the acts of private owners for the general benefit of the public, to prevent the spread of fire, and for similar purposes. And therefore, in order to determine whether this wall is a party wall, it is not necessary to consider what rights the plaintiff and defendant have, but what is the physical condition, position, and user of the wall." The facts were that the plaintiff was

* For decisions of the courts of law affecting the construction of the terms "street" and "building," see *ante*, pp. 44 *et seq.*

the owner of a boundary wall built on his own land, against which he had built some closets, and the defendant, his adjoining neighbour, had recently built a substantial structure. FRY, J., held that so far as these buildings extended against both sides of the wall it was a party wall within the meaning of the Act, and that the defendant was entitled, on giving proper notice under the Act, to take down such part as might be necessary for the purpose of necessary rebuilding (see 11 Ch. D. 412; 48 L. J. Ch. 395; 40 L. T. (N.S.) 397; 27 W. R. 817; 43 J. P. 622). This decision was affirmed in the Court of Appeal (W. N. (1880), p. 104).

The definition of "party wall" in s. 5 (16) of the London Building Act, 1894, is modelled* on the definition in these byelaws, but omits from clause (a) the words, "in any part of the height or length of such wall," and omits from clause (b) the words, "in any part of the length of such wall." But s. 58 of that Act enacts that "in either of the following cases, (a) when a wall is after the commencement of this Act built as a party wall in any part; or (b) where a wall built before or after the commencement of this Act becomes after the commencement of this Act a party wall in any part; the wall shall be deemed a party wall for such part of its length as is so used." Under s. 5 (16) a wall is only a party wall in so far as it divides adjoining buildings; and where the wall in question is carried up above the roof of the adjoining building so as to form, in fact, an outside wall, the portion so carried up is not a party wall; and it was held in *Drury v. Army and Navy Auxiliary Co-operative Supply Co., Ltd.* (1896), 2 Q. B. 271; 65 L. J. M. C. 169; 74 L. T. (N.S.) 621; 44 W. R. 560; 60 J. P. 421; 12 T. L. R. 404, that the provision of s. 75, that buildings of the warehouse class exceeding a certain size shall be divided by party walls, so that no division thereof shall exceed a certain size, only requires a wall to be a party wall so far as it divides one portion of the building from the other, and that if the wall is carried higher than the roof of the adjoining portion of the building, so as to become, in fact, an outside wall, the portion so carried up need not be constructed as a party wall. *Per* COLLINS, J.: "The essential factor in a 'party wall' is the separation of adjoining buildings in the one case, and the dividing of different parts of a warehouse in the other. When the division has been carried out, then, if the wall be carried up higher, it does not seem to me that the Act intends it shall be a party wall any higher than three feet above the point at which it ceases to divide one part of the warehouse from another." This decision followed *Weston v. Arnold* (1873), L. R. 8 Ch. App. 1084; 43 L. J. Ch. 123; 22 W. R. 284, where it was held that a wall might be a party wall within the meaning of the Bristol Improvement Acts, 1840 and 1847, for part of its length or height, and an external wall for the remainder of its length or height.

The general meaning of the term "party wall" is discussed by FRY, J., in *Watson v. Gray* (1880), 14 Ch. D. 192, at p. 194, as follows: "The words appear to me to express a meaning rather popular than legal, and they may, I think, be used in four different senses. They may mean, first, a wall of which the two adjoining owners are tenants in common, as in *Wiltshire v. Salford* (1827), 1 M. & R. 404, and *Cubitt v. Porter* (1828), 8 B. & C. 257. I think that the judgments in those cases show that that is the most common

* It will be remembered that the model byelaws of the Local Government Board were first issued in 1877, but that the revised edition of them was only issued during the present year (1904). In part, therefore, the framers of the Act of 1894 may have followed the byelaws, while in other respects the byelaws, as now framed, may have followed the Act.

and primary meaning of the term. In the next place the term may be used to signify a wall divided longitudinally into two strips, one belonging to each of the neighbouring owners, as in *Matts v. Hawkins* (1813), 5 Taunt. 20. Then, thirdly, the term may mean a wall which belongs entirely to one of the adjoining owners, but is subject to an easement or right in the other to have it maintained as a dividing wall between the two tenements. The term is so used in some of the Building Acts. Lastly, the term may designate a wall divided longitudinally into two moieties, each moiety being subject to a cross easement in favour of the owner of the other moiety." This case of *Watson v. Gray* is also reported 49 L. J. Ch. 243; 42 L. T. (N.S.) 205; 44 J. P. 427.

The effect of the Metropolitan Building Act, 1855, upon the common law rights of co-owners of a party-wall is discussed by JESSEL, M.R., in *Standard Bank of British South America v. Stokes* (1879), 9 Ch. D. 68; 47 L. J. Ch. 554; 38 L. T. (N.S.) 672; 26 W. R. 492; 43 J. P. 91. The application of the model byelaws to walls, which, though originally constructed as external walls, subsequently become party walls, is referred to at p. 93, *post*.

"External wall."—This definition has reference to the decision in *Green v. Eales* (1841), 2 Q. B. 225, where it was held that the external parts of premises are those which form the inclosure of them, and beyond which no part of them extends; and it is immaterial whether they are exposed to the atmosphere, or rest upon and adjoin some other building which forms no part of the premises let.

With regard to this definition the cases of *Drury v. Army and Navy Auxiliary Co-operative Supply Co., Ltd.*, and *Weston v. Arnold*, cited in the note above, should be referred to.

On the question of ownership, it may be observed that it has been decided that a lease of the rooms on a floor is a lease of a separate dwelling, and includes the outer wall so far as it is solely appropriate to the rooms let (*Carlisle Café Co. v. Muse Brothers & Co.* (1897), 67 L. J. Ch. 53; 77 L. T. 515; 46 W. R. 107).

"Public building."—As defined in the London Building Act, 1894, this term also includes "a building used or constructed or adapted to be used as an hotel, lodging-house, home, refuge, or shelter, where such building extends to more than 250,000 cubic feet, or as sleeping accommodation for more than one hundred persons."

Under the definition contained in s. 3 of the now repealed Metropolitan Building Act, 1855, it was held that an ambulance station, built by direction of the Metropolitan Asylum managers, and paid for out of poor rates, and consisting of several buildings having a separate access, and not structurally connected with any hospital, was not a public building (*Josolyne v. Meeson* (1885), 53 L. T. (N.S.) 319; 49 J. P. 805); and in *Moses v. Marsland* (1901), 1 K. B. 668; 70 L. J. K. B. 261; 83 L. T. (N.S.) 740; 49 W. R. 217; 65 J. P. 183, it was held that a house provided by the Managers of the Metropolitan Asylum District as a home for children of defective intellect or physical infirmity was not a "public building" under the London Building Act, 1894.

"Building of the warehouse class."—The definition of this term in the London Building Act, 1894, extends it, for the purposes of that Act, to "any other building exceeding in cubical extent 150,000 cubic feet which is neither a public building nor a domestic building."

“**Dwelling-house**” is not defined in the Public Health Acts. It is, however, defined in the London Building Act, 1894, in precisely the same terms as are used here.

With reference to this definition, the observations of BOWEN, L.J., in *Wright v. Ingle* (1885), 16 Q. B. D. at p. 399, on the general meaning of the term may be usefully cited. He defined a dwelling-house as a building capable of being used as a dwelling for man, and continued: “There may be two obstacles which render a building incapable of being so used. First, it may be physically incapable of being reasonably so used on account of its construction. Neither the Duke of York’s column, nor a tombstone, nor an open shed, nor the Prince Consort’s memorial, could, by any fit use of language, be said to be capable of being used as a dwelling for man. This is a physical incapacity. But, secondly, there may be a legal incapacity preventing a building from being used as a dwelling for man,—an incapacity existing either at common law or by statute. An instance of legal incapacity is afforded by a church of the Established Church of England. By the consecration of such a church the status of the building and of the soil is altered. The building is, by the ecclesiastical law, separated for ever from the common uses of mankind. It is dedicated thenceforward to sacred services, and the law precludes it from being ever capable of use for ordinary secular purposes.” This case of *Wright v. Ingle* is also reported 55 L. J. M. C. 17; 54 L. T. (N.S.) 511; 34 W. R. 221; 50 J. P. 436.

“**Width.**”—The definition allows areas covered with gratings or plates to be reckoned in the width of the street; but forecourts, and areas not so covered, cannot be included in the width of the street.

“**Bressummer.**”—As already mentioned (p. 57), this definition follows the definition contained in s. 5 (7) of the London Building Act, 1894.

Exempted Buildings.

Exempted
buildings.

2. The following buildings shall be exempt from the operation of the byelaws relating to new streets and buildings:—

- (a) Any building in his Majesty’s possession, or employed or intended to be employed for his Majesty’s use or service :
- (b) Any county or borough lunatic asylum, and any building or part of a building belonging to the council of any county, city or borough, and used or intended to be used for the detention of any prisoners :
- (c) Any gaol, house of correction, bridewell, penitentiary, or other prison, and any building occupied or intended to be occupied by any prison officer for the use of such prison and contiguous thereto :
- (d) Any building (not being a dwelling-house) belonging to any person or body of persons authorised by virtue of any Act of Parliament to navigate on or use any river,

canal, dock, harbour, or basin, or to demand any tolls or dues in respect of the navigation of such river or canal, or the use of such dock, harbour, or basin, and used or intended to be used exclusively under the provisions of such Act of Parliament for the purposes of such river, canal, dock, harbour, or basin :

- (e) Any building (not being a dwelling-house) erected or intended to be erected in connection with any mine, and used or intended to be used exclusively for the working of such mine :
- (f) Any building erected or to be erected according to plans previously approved by the Land Commissioners for England or the Board of Agriculture, or the Board of Agriculture and Fisheries under the Improvement of Land Act, 1864, or other Act or Acts for the improvement of land :
- (g) Any building which may not be exempt by the operation of any of the preceding clauses of this byelaw, and which may be erected or may be intended to be erected in accordance with such plan and in such manner as may be approved or directed in pursuance of any statutory provision in that behalf by one of his Majesty's Principal Secretaries of State :
- (h) Any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, greenhouse or conservatory :
- (i) Any building erected and used, or intended to be erected and used, exclusively for the purpose of an orchard-house, summer-house, poultry-house, boathouse, coal-shed, garden-tool house, potting-shed, cycle-shed, or aviary which shall not exceed in extent *six hundred cubic feet*, or which if exceeding in extent *six hundred cubic feet* or if used or intended to be used for keeping domestic animals shall be wholly detached, and at a distance of *ten feet* at the least from any other building not being a building exempt under paragraphs (h), (i), (j), or (k) of this byelaw :
- (j) Any building which shall not exceed in height *thirty feet* as measured from the footings of the walls, and shall not exceed in extent *one hundred and twenty-five thousand cubic feet*, and shall not be a public building, and shall not be constructed or adapted to be used either wholly or partly for human habitation, or as a place of habitual

employment for any person in any manufacture, trade, or business, and shall be distant at least *eight feet* from the nearest street, and at least *thirty feet* from the nearest building not being a building exempt under paragraphs (h), (i), (j), or (k) of this byelaw, and from the boundary of any adjoining lands or premises :

(k) Any building which shall exceed in height *thirty feet* as measured from the footings of the walls, and shall exceed in extent *one hundred and twenty-five thousand cubic feet*, and shall not be a public building, and shall not be constructed or adapted to be used either wholly or partly for human habitation, or as a place of habitual employment for any person in any manufacture, trade, or business, and shall be distant at least *thirty feet* from the nearest street, and at least *sixty feet* from the nearest building not being a building exempt under paragraphs (h), (i), (j), or (k) of this byelaw, and from the boundary of any adjoining lands or premises :

(l) Any building erected or intended to be erected for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous infectious disorder.

Exempted buildings.—The buildings included in the foregoing byelaw are of two kinds, (a) buildings the construction of which is subject to the control of some Government Department, and (b) buildings which on general grounds it would be unreasonable or inexpedient to bring within the operation of the model code.

Crown property.—The general rule of law is that the Crown is not bound by such statutes as do not particularly and expressly mention it. But to this rule there is a most important exception, namely, that the Crown is impliedly bound by statutes passed for the general public welfare. It will be seen, however, that s. 327 of the Public Health Act, 1875, contains an express saving for lands or other property vested in the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of the Lord High Admiral for the time being, or in her Majesty's Principal Secretary of State for the War Department for the time being. And it was held in *Hornsey Urban District Council v. Hennell* (1902), 2 K. B. 73 ; 71 L. J. K. B. 479 ; 66 J. P. 613 ; 50 W. R. 521 ; 86 L. T. 423, that the Crown is not bound by the provisions of s. 150 of the Public Health Act, 1875. It may not, therefore, be unnecessary to expressly exempt the buildings mentioned in paragraph (a) of the byelaw from the operation of the succeeding clauses. It may further be mentioned that s. 15 of the Infectious Disease (Notification) Act, 1889, expressly provides that "nothing in this Act shall extend to any building, ship . . . van, shed, or similar structure belonging to her Majesty the Queen, or to any inmate thereof." So, also, s. 202 of the London Building Act, 1894, expressly provides that "there shall be exempted from so much of the provisions of this Act as relates to

buildings or structures—every building, structure or work vested in and in the occupation of her Majesty, her heirs and successors, either beneficially or as part of the hereditary revenues of the Crown, or in trust for the public service or for public services; also any building, structure or work vested in and in the occupation of any department of her Majesty's Government, or of the metropolitan police, or of the trustees of the British Museum for public purposes, or for the public service; also any building, structure or work vested in or occupied for the service of the Duke of Cornwall for the time being." See also s. 6 of the Metropolitan Building Act, 1855 (18 & 19 Vict. c. 122); ss. 24 and 25 of the Metropolis Management and Building Acts Amendment Act, 1878 (41 & 42 Vict. c. 32); and s. 24 of the Metropolis Management and Building Acts Amendment Act, 1882 (45 Vict. c. 14.) Under the first of these repealed enactments it was held that buildings erected by the Commissioners of Licutenaney of the City of London, under statute 1 Geo. 4, c. 100, s. 39, and 17 & 18 Vict. c. 105, s. 2, for the custody of the arms and stores of the militia, were within the exemption as "employed for her Majesty's use or service" (*R. v. Jay* (1857), 8 E. & B. 469; *S. C. Jay v. Hammon or Hammond*, 27 L. J. M. C. 25; 4 Jur. (N.S.) 407; 30 L. T. (O.S.) 133; 6 W. R. 41; 22 J. P. 527). Reference may also be made to the case of *Pearson v. Holborn Union*, (1893) 1 Q. B. 389; 62 L. J. M. C. 77; 68 L. T. (N.S.) 351; 57 J. P. 169; 5 R. 290, on the exemption of volunteer drill halls and storehouses from local rates, and other cases such as *Leith Harbour Commissioners v. The Inspector of the Poor* (1866), L. R. 1 H. L. Sc. 17; *Lord Amherst v. Lord Sommers* (1788), 2 T. R. 372; *Smith v. Birmingham Guardians* (1857), 7 E. & B. 346; 26 L. J. M. C. 105; 3 Jur. (N.S.) 769; *R. v. McCann* (1868), L. R. 3 Q. B. 141; 37 L. J. M. C. 123; 16 W. R. 985; 19 L. T. (N.S.) 115; 32 J. P. 579.

Lunatic asylums.—Under s. 254 of the Lunacy Act, 1890 (53 Vict. c. 5), as amended by s. 16 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65), the approval of a Secretary of State is required to any plans or contracts agreed upon by a visiting committee, for the purchase of lands and buildings, or for the erection, enlargement, etc., of buildings, for the provision of asylum accommodation.

Lock-up houses.—As to the latter part of paragraph (*b*), which appears to refer to lock-up houses, see 5 & 6 Viet. c. 109, s. 22; 11 & 12 Viet. c. 101; 31 & 32 Viet. c. 22, s. 10, under which the plans of such buildings require the approval of the Secretary of State.

Prisons, etc.—By s. 2 of the Prison Act, 1884 (47 & 48 Viet. c. 51), the Secretary of State has power, with the approval of the Treasury, to build, enlarge or alter prisons, or to appropriate as a prison any suitable building vested in him, or under his control. The exemption in clause 2 (*c*) follows generally the definition of "prison" in s. 4 of the Prison Act, 1865 (28 & 29 Viet. c. 126).

Canal and dock buildings.—Subject to the provisions of s. 327 of the Public Health Act, 1875, the local authority may not interfere with any river, canal, dock, harbour or basin, so as to injuriously affect its use or navigation, in cases where any body of persons or person are or is, by virtue of any Act of Parliament, entitled to navigate on or use the same, or to receive tolls or dues in respect of the navigation or use thereof. But the exemption prescribed by paragraph (*d*) of clause 2 is required, in order to avoid the

difficulties which would probably arise if the buildings mentioned were subject to the provisions of the byelaws. It will be observed that dwelling-houses belonging to canal, dock, and other similar companies, are not included in the exemption, and the erection of such houses will, therefore, be subject to regulation by the local authority under the byelaws.

Railway buildings.—The model clause contains no exemption of railway buildings; but this, as regards buildings other than dwelling-houses, is unnecessary, in view of the last paragraph of s. 157 of the Public Health Act, 1875. The exemption conferred by that enactment has been held to be limited to buildings which are part of stations or warehouses adjoining stations, and so directly connected with the traffic of railways. Cottages built by a railway company for their workpeople on their own land are not included in the exemption (*Manchester, Sheffield, and Lincolnshire Railway v. Barnsley Union* (1892), 56 J. P. 679), and the byelaws will apply to all such cottages, and to any other buildings belonging to a railway company which are occupied as dwelling-houses by *employés* of the company.

Colliery, etc., buildings.—There is no statutory exemption of buildings connected with mines. The provision in paragraph (e) seems, however, to be desirable. It will not exempt dwelling-houses.

Buildings erected under control of Board of Agriculture and Fisheries.—Plans and specifications of these buildings are required to be submitted to and approved by the Land Commissioners (now the Board of Agriculture and Fisheries) before the buildings are commenced. (See the Improvement of Land Act, 1864 (27 & 28 Vict. c. 114), ss. 30, 31; 52 & 53 Viet. c. 30, s. 2; 3 Edw. 7, c. 31.)

Buildings under control of Secretary of State.—As to these buildings see, for example, s. 12 of the County Police Act, 1840 (3 & 4 Vict. c. 88), under which the plans for county police stations must be approved by the Secretary of State. The observance of this requirement will, therefore, bring such buildings within paragraph (g), if they are not already exempted by any preceding clause of the byelaw.

Plant-houses, summer-houses, etc. (paragraphs (h) and (i)).—The sub-clause for which these paragraphs have been substituted was of much more restricted application. The unconditional exemption of plant-houses, greenhouses, and conservatories, whether detached or not, and without reference to their heating arrangements, if any, is new. Previously, also, no exemption for boat-houses, coal-sheds, garden-tool houses, potting sheds, and cycle sheds was suggested in the model series. The conditions of exemption prescribed in sub-clause (i) should be noticed. But these buildings and others to which this sub-clause applies need not be wholly detached unless they exceed 600 cubic feet in extent, or unless they are to be used for keeping animals. As to whether conservatories, tool-houses, etc., are “buildings,” see *Hibbert v. Acton Local Board*, and *Fielding v. Rhyl Improvement Commissioners*, referred to in the notes on pp. 52 and 53.

Buildings exempted by paragraphs (j) and (k).—These paragraphs have been framed with a view to the exemption of agricultural and other buildings not within the scope of any of the previous exemptions, where the purposes for which the buildings are constructed, their height and cubical contents, and their distance from streets and from other buildings, not being

buildings exempted by sub-clauses (h) to (k), are such as to remove risk of danger either to such other buildings or to the public. It may be questioned whether, in certain cases, the words, "at least feet from the nearest street, and," might not be omitted from each of these sub-clauses where the byelaws are to apply to a rural area.

A stable in which horses belonging to a builder are kept and in which they are fed and groomed is not a building "adapted to be used . . . as a place of habitual employment for any person in any manufacture, trade or business" within the meaning of (j) and (k) (*Linzell v. Felixstowe and Walton Urban District Council* (1904), 68 J. P. 208; 2 L. G. R. 372). Such a stable, fulfilling the necessary conditions as to dimensions, etc., is exempt from the byelaws (*Ibid.*).

Temporary hospitals.—This exemption has frequently been found necessary in connection with outbreaks of infectious disease, where the existing hospital accommodation has proved insufficient to provide for the proper isolation of infected persons, and the sanitary authority have been compelled at short notice to erect temporary buildings to supply the deficiency. It is not desirable in any case to omit the clause. The district council would have no power to make a byelaw prohibiting the establishment of hospitals for infectious disease by other local authorities. (See *Withington v. Manchester*, (1893) 2 Ch. 19, 87.)

Workhouses not exempted buildings.—Workhouses and workhouse schools and infirmaries are not exempted by this clause from the operation of the byelaws as to new streets and buildings.

Public elementary schools.—The same remark applies to the buildings of public elementary schools.

Buildings of water company or gas company.—It would appear that unless there is special provision in the special Act, the buildings of a water company or gas company are not exempt from the operation of the model byelaws. In *Grand Junction Waterworks Co. v. Hampton Urban District Council* (1898), 67 L. J. Q. B. 903; 79 L. T. 176, it was held that a water company was subject to the provisions of the Public Health (Buildings in Streets) Act, 1888. It appeared that the special Act incorporated s. 93 of the Waterworks Clauses Act, 1847, which provides that nothing in that Act or the special Act shall exempt the undertakers from "any Act for improving the sanitary condition of towns and populous districts," and it was held that the Public Health (Buildings in Streets) Act, 1888, being "an Act for improving the sanitary condition of towns and populous districts," prevented the company from erecting a building in a street beyond the front main wall of the house or building on either side thereof. See also *Uckfield Rural District Council v. Crowborough Water Company* (1899), 2 Q. B. 664; 68 L. J. Q. B. 1009; 48 W. R. 63; 81 L. T. 539; 16 T. L. R. 3; which shows that a water company erecting a water tower are bound to comply with byelaws such as model clauses 95 and 96.

3. The following buildings shall be exempt from the operation of the byelaws numbered*

Partial exemption of iron buildings.

Any building which comprises not more than one storey, the external walls of which shall be constructed of, or wholly covered

* Here insert the words "twelve to thirty-five" both inclusive, or such other numbers as correspond with those byelaws of the model series.

with, galvanised, corrugated, or other sheet iron, which shall not be constructed or adapted to be used either wholly or partly for human habitation, and which,

- (a) if it does not exceed in height *twelve feet* and in cubical capacity *two thousand feet*, shall be distant at least *ten feet* from the boundary of any adjoining lands or premises not being a street ;
- (b) if it exceeds in height *twelve feet* but does not exceed *fifteen feet* and does not exceed in cubical capacity *fifteen thousand feet*, shall be distant at least *eight feet* from the nearest street, and at least *fifteen feet* from the nearest building, and from the boundary of any adjoining lands or premises ;
- (c) if it exceeds in height *fifteen feet* but does not exceed *thirty feet* and does not exceed in cubical capacity *eighty thousand feet*, shall be distant at least *eight feet* from the nearest street, and *thirty feet* from the nearest building, and from the boundary of any adjoining lands or premises.

For the purposes of this byelaw height shall be measured from the level of the ground adjoining the walls to half the vertical height of the roof of the building.

Exemption of iron buildings.—The object of this clause is to permit of the erection, subject to proper restrictions, of iron churches and other iron buildings not coming within any of the exemptions prescribed by clause 2. An iron church, for example, would not come within paragraph (j) or (k) of that clause, because it would be a “ public building ” as defined by clause 1 ; nor would an iron workshop or any other building intended for use “ as a place of habitual employment for any person in any manufacture, trade, or business.” But it will be noticed that clause 3 only applies to one storey iron buildings not intended for human habitation. Byelaws Nos. 12 to 35, from the operation of which the clause exempts these buildings, relate (clauses 12 and 13) to “ excavated ” and “ low-lying ” sites, and (clauses 14 to 35) to the structure of walls. It is considered that no sufficient reason could be shown for exempting such buildings from the requirements of other clauses in the series. Precautions against the spread of fire also are a principal feature in the conditions under which iron buildings are allowed. The clause does not allow an iron building to be brought close up to a street, except in the case of a building to which sub-clause (a) applies. In connection with the subject of iron buildings, reference may be made to the case of *Badley v. Cuckfield Rural District Council* (1895), 64 L. J. Q. B. 571 ; 43 W. R. 663 ; 72 L. T. 775 ; 59 J. P. 582 ; 15 R. 461. In that case, by a byelaw with respect to new buildings under s. 157 of the Public Health Act, 1875, it was provided that every person who shall erect a new building shall cause such building to be enclosed with walls constructed of good bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together with good

mortar (see model clause 14); and the court (Lord RUSSELL, C.J., and CHARLES, J.) held that the byelaw applied to a building enclosed with walls constructed of materials other than bricks or stone; and that a building intended for residential purposes, and consisting of a wooden framework to which was attached externally a layer of felt, and then corrugated sheets of galvanised iron, 1-32nd part of an inch thick, and internally a lining of match boarding which directly enclosed the room, was not enclosed with walls constructed of hard and incombustible materials.

*With respect to the level, width, and construction of
new streets.*

4. Every person who shall lay out a new street shall lay out such street at such level as will afford the easiest practicable gradients throughout the entire length of such street, for the purpose of securing easy and convenient means of communication with any other street or intended street with which such new street may be connected or may be intended to be connected, and as will allow of compliance with the provisions of any statute or byelaw in force within the district for the regulation of new streets and buildings.

Level of new
streets.

Level of new streets.—The level of a street (*i.e.*, its elevation, throughout its course, above the datum line) is a matter intimately affecting the convenience of the public. In low-lying districts it may be of especial importance in relation to floods, and must in every case have a direct bearing upon the convenience of traffic. It would, however, be impossible in a byelaw which is to be of general application to do more than indicate in the most general terms the objects to be kept in view in fixing the levels, and no attempt to prescribe definite regulations on the subject is suggested by the model clause now under consideration. The gradients should, of course, be made as easy as possible; but in districts which are closely built over, sharp inclinations may be permissible, and even unavoidable, especially in streets of short length (*cf.* *Great Salterns Syndicate v. Portsmouth Corporation*, (1904) 68 J. P. 48).

Places under local Act.—Where, by incorporation with any local Act, ss. 57—61 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), are in force within the district of any local authority proposing to adopt the model byelaws, clause 4 of the series must be omitted.

Person who “lays out” a new street.—The person who lays out a new street is the person who actually does so, and not the person who, for example, only builds a house which may be in the street. For example, the owner of certain building land gave notice to the local authority of his intention to lay out certain new streets, including a certain back street, and deposited plans of such streets. Notice was also received by the local authority from a builder of his intention to dig and lay out the foundation of four cottages in the back street, and a plan of such street was deposited by him. In the plans deposited by the owner and builder, the back street in which it was intended to build the four cottages was shown as being only twelve feet wide, whereas the minimum width of back streets prescribed by the byelaws was eighteen feet. The local authority accordingly gave the owner and the builder notice of their disapproval of such plans, and on the builder proceeding to build the cottages

according to the disapproved plans, the local authority summoned him for unlawfully laying out a new street of insufficient width contrary to the bye-laws. The justices dismissed the summons. It was held that the justices were right on the ground that the owner of the land, and not the builder, was the person who laid out the street (*Mayor of Sunderland v. Brown* (1880), 44 J. P. 831). POLLOCK, B., said: "The respondent, a builder, was called on by the landowner to build certain houses, and his work in building these houses was entirely independent of the laying out of the street." HAWKINS, J., said: "I think that a builder may lay out a new street if he is employed to do so. But in the present case the builder was not so employed; he had no hand in making the plans and laying out the street; the street was laid out by the building owner, who submitted the plans to the urban authority. All that the builder was employed to do was to build certain cottages upon the line of a new street already laid out."

Width of
"front"
streets in-
tended for
carriage-
roads.

Certain
"front"
streets to be
constructed
for use as car-
riage-roads.

5.—(1.) Every person who shall lay out a new street which shall be intended for use as a carriage-road shall so lay out such street that the width thereof shall be *thirty-six feet* at the least.

(2.) Every person who shall construct a new street which shall exceed *one hundred feet* in length shall construct such street for use as a carriage-road, and shall, as regards such street, comply with the requirements of every byelaw relating to a new street intended for use as a carriage-road.

(3.) Provided always that this byelaw shall not apply in any case where a new street shall not be intended to form the principal approach or means of access to any building.

Width of new streets.—The width of a new street derives importance from considerations of health as well as of the convenience of traffic. A street twenty-four feet in width may be sufficient, so far as can be foreseen, for the traffic of many years to come; but the unexpected opening up of adjacent land or the unforeseen construction of a new street through old property may convert this narrow street into a principal thoroughfare, the widening of which may thus suddenly become important, but which can only be effected at considerable expense. This, however, is not the only point to be borne in mind: for narrow streets, other than those of a purely business character, tend to an increase of the density of population, owing to the greater number of dwellings which, under these conditions, are erected upon any given space. On these grounds local authorities should rather consider whether they can reasonably enforce a greater minimum width than that prescribed by the model clause—say, *forty feet*—than admit the contention, sometimes advanced, that the adoption of thirty-six feet as the minimum width will involve an undue sacrifice of building land. A total width of thirty-six feet will allow of the formation of a roadway twenty-four feet wide; but this is only wide enough to admit of the safe and convenient passage along the centre of the road of any vehicle of ordinary size where for the time being another such vehicle, whether stationary or in motion, occupies each side of the road. The byelaw applies only to what are usually termed "front streets," *i.e.*, streets "intended to form the principal approach or means of access to buildings."

Streets exceeding 100 feet in length.—Sub-clause (2) operates so as to secure the full width of thirty-six feet at least, together with convenience of access with carriages, if the street be more than 100 feet in length. In the case of *Roberts v. Richards* (1890), 54 J. P. 693, it was held by the court (Lord COLERIDGE, C.J., and Lord ESHER, M.R.), that a byelaw similar to this was valid and binding, and that there was nothing unreasonable in laying down an absolute rule as to width, though a byelaw may give discretion as to width (*Robinson v. Barton Local Board* (1882), 21 Ch. D. 624).

Scheme of the model byelaws as regards width of new streets.—The requirements of the model clauses with regard to the width of new streets may be thus summarised:—

Front streets,—

Carriage roads, minimum total width, thirty-six feet.

Other front streets, minimum total width, twenty-four feet.

All front streets over 100 feet in length to be carriage roads.

Back streets,—

All back streets over 100 yards in length, minimum width, sixteen feet.

Shorter back streets, minimum width, thirteen feet.

Places under local Acts.—Where s. 63 of the Towns Improvement Clauses Act, 1847, is in force by virtue of the provisions of any local Act, clauses 5 to 8 of the model series, so far as they relate to the width of new streets, must be omitted.

6. Every person who shall lay out a new street which shall be intended to form the principal approach or means of access to any building, but shall be intended for use otherwise than as a carriage-road, and shall not exceed in length *one hundred feet*, shall so lay out such street that the width thereof shall be *twenty-four feet* at the least.

Width of
"front"
streets not
intended for
carriage
traffic.

Streets not intended for carriage traffic.—In *Roberts v. Richards* (1890), 54 J. P. 693, the court (Lord COLERIDGE, C.J., and Lord ESHER, M.R.) held that byelaws similar in effect to model clauses 5 (2) and 6 were valid and binding. The definition of "street" in s. 4 of the Public Health Act, 1875, may be said to indicate that the legislature contemplated the regulation by means of byelaws of streets not intended for carriage traffic. This is provided for by the present clause. But if it is desired to discourage the formation of such streets, the two clauses mentioned might be omitted, together with the words "which shall be intended for use as a carriage-road" in clause 5 (1) and the words "intended to form the principal approach," etc., in the opening paragraph of clause 8. Then all front streets would have to be constructed of a total width not less than thirty-six feet, and except in very few cases all new streets would probably be laid out as carriage-roads.

7. Every person who shall lay out a new street which shall not be intended to form the principal approach or means of access to any building, but shall be intended for use as a secondary means of access to any premises for the purpose of the removal therefrom of house refuse and other matters, shall

Width of
"back"
streets.

so lay out such street that the width thereof shall be *sixteen feet* at the least, provided that if such new street shall not exceed in length *one hundred yards* the width thereof shall be *thirteen feet* at the least.

Width of back streets.—The provision of “secondary means of access” to premises cannot be enforced under the general law, unless s. 23 (1) of the Public Health Acts Amendment Act, 1890, is in force and byelaws have been made thereunder. (See *Waite v. Garston Local Board* (1867), L. R. 3 Q. B. 5; 37 L. J. M. C. 19; 17 L. T. (N.S.) 201; 16 W. R. 78; 32 J. P. 228, where it was held that a byelaw that “no dwelling-house shall be erected without having at the rear or side thereof a good and sufficient back street or roadway, at least twelve feet wide, communicating with some adjoining public street or highway, for the purpose of affording access to the privy or ashpit of such house,” was invalid.) If, however, the district council wish to regulate the width of such back streets as may be provided, whether in satisfaction of a byelaw under s. 23 (1) of the Act of 1890 or otherwise, the present clause will enable them to do so.

Construction
of new
“front”
streets
intended for
carriage
traffic.

8. Every person who shall construct for use as a carriage-road a new street intended to form the principal approach or means of access to any building shall comply with the following requirements:—

- (a) He shall construct the carriage-way of such street so that the width thereof shall be *twenty-four feet* at the least.
- (b) He shall construct the surface of the carriage-way of such street so as to curve or fall from the centre or crown of such carriage-way to the channels at the sides thereof; the height of the crown of such carriage-way above the level of the side channels being calculated at the rate of not less than *three-eighths of an inch* and not more than *three-fourths of an inch* for every foot of the width of such carriage-way.
- (c) He shall construct on each side of such street a footway of a width not less than *one-sixth* of the entire width of such street.
- (d) He shall construct each footway in such street so as to slope or fall towards the kerb or outer edge at the rate of *one half of an inch* in every foot of width, if the footway be not paved, flagged, or asphalted; and at the rate of not less than *a quarter of an inch* and not more than *one half of an inch* in every foot of width, if the footway be paved, flagged, or asphalted.
- (e) He shall construct each footway in such street so that the height of the kerb or outer edge of such footway above

the channel of the carriage-way (except in the case of crossings paved or otherwise formed for the use of foot passengers) shall be not less than *three inches* at the highest part of such channel and not more than *seven inches* at the lowest part of such channel.

Construction of new streets.—The model byelaws do not prescribe the materials of which new streets are to be constructed. But if it were practicable, having regard to the varying circumstances of different districts, to deal with the matter in a series of clauses intended for general application, it may be doubted whether the general powers which district councils possess under the Public Health Acts (s. 150 of the Public Health Act, 1875, s. 41 of the Public Health Acts Amendment Act, 1890, and the Private Street Works Act, 1892), require supplementing by means of byelaws. It may indeed be urged that detailed provisions on the subject, in the form of byelaws, might have the effect rather of hampering than of assisting the local authority. See also note, next page (“Level of Kerb”). Accordingly, the model clauses 8 and 9, which relate to the construction of new streets, deal only with general points of construction, such as the transverse section of streets, the proportion of the aggregate width to be assigned to the carriage-way, the provision of proper footways, and the construction of a proper entrance.

Width of carriage-way and footways.—It will be seen that, of the total width of thirty-six feet prescribed by clause 5 (1) as a minimum for a “front” street which is to be used for carriage traffic, clause 8 allots twenty-four feet or *four-sixths* to the carriage-way, and the remaining *two-sixths* to the footways. If forty feet is adopted as the minimum width for such streets, it is usual to require the carriage-way to be not less than *twenty-six feet*, and each footway not less than *seven feet* wide, and to alter sub-clauses (a) and (c) accordingly. Sub-clause (a) might, however, provide that the width of the carriage-way shall be “not less than *two-thirds of the entire width* of (such) street,” and (c) would not then require alteration.

Transverse section of street.—The transverse section of a street constructed as prescribed by the model byelaws is shown in the diagram (Plate I., Fig. 1). This represents a street as generally made; the surface of the carriage-way being curved from the centre or crown to the side channels. Another form of construction of the carriage-way is where the section of the road is formed by two straight lines inclining towards the sides of the road, and connected in the middle of it by an arc. As regards the fall to be given to the roadway from the centre to the side channels, it should be borne in mind that a too great convexity of surface increases the difficulty of traction for horses, as well as the amount of wear and tear, alike of carriage wheels and of the roadway, from the constant tendency of vehicles to move sideways down the inclined plane when driven otherwise than in the centre of the road. The only purpose served by the rounding of the road being that of surface drainage, it may be questioned whether the falls required by the model byelaw will not in some cases be found greater than is necessary.*

* See “The Construction of Streets and Roads,” by Henry Law, M.I.C.E., and D. Kinnear Clark, M.I.C.E.—London: Crosby Lockwood & Son.

Level of kerb.—In *Rudland v. Mayor, etc. of Sunderland* (1885), 52 L. T. (N.S.) 616; 33 W. R. 164; 49 J. P. 359, the following byelaw was held void as being unreasonable: "Every person who constructs a new street shall cause the kerb of each footpath in such street to be put in at such level as may be fixed or approved by the urban sanitary authority. No person shall commence the erection of a building in a new street unless and until the kerb of each footpath therein shall have been put in pursuant to the preceding requirement." Every person offending against this byelaw shall be liable for each offence to a penalty of forty shillings." GROVE, J. (at 52 L. T. p. 620), said: "If it is applied only to the particular piece of the street opposite to that on which a man might be going to build, there might be some ground for arguing that it was reasonable; but it is not so, for, if it means anything, it means that each owner must wait until the whole kerb is put in. I think such a requirement is unreasonable." HAWKINS, J., said: "I doubt whether the authority has power to make these provisions with respect to matters which have been specifically provided for by the 150th section (of the Public Health Act, 1875), since they amount to imposing on landowners an absolute duty to do certain things under pain of incurring a penalty, while that section merely provides that if they decline to do them there shall be no penalty, but the authority shall themselves do them and recover the expenses."

Entrance to
new street.

9. Every person who shall construct a new street shall provide that one end, at least, of such street shall be open from the ground upwards to the full width of such street.

Entrance to new street.—The model byelaw in effect provides that at least one of the entrances to every new street, whether a carriage-way or not, shall be open from the ground upwards to the extent of the full width of the street. This tends, of course, to secure the free circulation of air about buildings, as well as the convenience of traffic. Having regard to the comprehensive terms in which the expression "street" is defined in s. 4 of the Public Health Act, 1875, it would be unreasonable to require that every new street should have an entrance at each end. In avoiding the actual use of the term "entrance," and in requiring merely that the street, *at one end*, shall be open from the ground upwards to the full width of the street, the byelaw avoids the difficulty connected with the previous form of the clause, which resulted from several conflicting decisions, and much adverse criticism in the courts. The previous form of clause was one requiring "an entrance of a width equal to the width of the street, and open from the ground upwards"; and as byelaws in this form are, at the present time, very generally in force, it may be well to state the effect of the decisions referred to in some detail.

In *Hendon Local Board v. Pounce* (1889), 42 Ch. D. 602, the byelaws provided that new streets should be at least forty feet in width, and that "every person who shall construct a new street shall provide at one end, at least, of such street an entrance of a width equal to the width of such street and open from the ground upwards." The defendants deposited plans showing that they could only comply with the byelaw by obtaining the consent of an adjoining owner to carry the street through his land. It was held that the byelaw prevented the defendant from constructing the street without first providing the entrance required by the byelaw, notwithstanding the fact that he could not do so without the consent of the adjoining owner.

This decision was criticised by KEKEWICH, J., in *Bromley Local Board v. Lloyd* (1892), 56 J. P. 278; but he considered himself bound by it, and acted upon it by granting the *interim* injunction applied for. When, however, the case came on for trial before WILLS, J., that learned judge appears, though the report is perhaps somewhat obscure, to have refused to follow the report of the *Hendon Case* on the ground that "it did not sufficiently indicate what it was that NORTH, J., did decide"; and he held that "entrance meant a practicable way into the street," and dissolved the *interim* injunction.

From this conflict of opinion, the question must be regarded as again open, until the case of *Barton Regis Rural District Council v. Stevens and Others* (1897), 61 J. P. 598. It appeared in that case that the defendants or their testator, for they were executors, were desirous of developing certain land by building thereon, and accordingly deposited a plan for a new street with the plaintiff authority. The proposed new street, Rosebery Avenue, was intended for use as a carriage-road, and was of the width (36 feet) required by the byelaws, which, again, were according to the form of the model byelaws as then existing (see above). The new street abutted or joined an already existing street leading to Durdham Down. This street, which is a thoroughfare situate within the district of the city of Bristol, and outside the district of the Barton Regis Rural District Council, formed the entrance to the proposed new street. It was 30 feet wide throughout its entire length, that being the width prescribed by the byelaws in force within the city of Bristol, except at the point where it would join a new street, where it was only 29 feet wide. The plan was disapproved on the ground that the entrance to the proposed new street was not of the required width. An amended plan was submitted, and this was also disapproved. The case then came before the High Court, when POLLOCK, B., and KENNEDY, J., followed the decision of NORTH, J., although with some hesitation. KENNEDY, J., did not feel sufficient doubt to differ from NORTH, J. With regard to any hardship that might fall upon individuals who may be desirous of laying out new streets where it is almost impossible to obtain an entrance on another man's land of the prescribed width, POLLOCK, B., observed that "the true answer . . . is that if a building owner in carrying out the proposed development of his estate cannot comply with the byelaws made under the statute he must alter his scheme of development so as to be in accordance with them."

A byelaw requiring that every new street shall open directly into another street, or that in connection with the laying out of a new street not opening directly into another street, an "approach" to the new street shall be formed, of a certain minimum width, would appear to be *ultra vires*, although the arrangement contemplated may on abstract grounds be desirable.

Byelaw as to "secondary means of access."—Where the district council, by adoption of Part III., or otherwise,* have power under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make a byelaw requiring the provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters, the byelaw may be inserted under a separate heading after clause 9 of the present series. In this and other respects byelaws made under s. 23 of the Act of 1890 may be combined with clauses under s. 157 of the Public Health Act, 1875, in one series. In the following

* See ss. 3 and 5.

pages the place of other clauses under the Act of 1890 in a combined series will be indicated as occasion requires. For appropriate forms of byelaws as to secondary means of access and other matters as to which byelaws under the Act of 1890 may be incorporated in this series, see the clauses suggested by the Editors on pp. 202 to 223, *post*.*

With respect to the structure of walls, foundations, roofs, and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health.

Building sites
impregnated
with faecal
matter, etc.

[†10. A person who shall erect a new building shall not construct any foundation of such building upon any site which shall have been filled up with any material impregnated with faecal matter or impregnated with any animal or vegetable matter, or upon which any such matter may have been deposited, unless and until such matter shall have been properly removed, by excavation or otherwise, from such site.]

New building.—As to what is a “new building” see *ante*, p. 50.

Foundations of new buildings.—Clauses 10 to 13 of the model byelaws relate to the foundations of new buildings. The term “foundation” is used in building construction to describe both the surface or bed of earth or other material on which a building rests, and the manner in which the substratum of the building is constructed so as to form an adequate support for the superstructure. It is in the former sense chiefly in which the term is employed in the model clauses. The clauses dealing with the subject are not concerned with the *selection* of sites for buildings, but with the steps to be taken to *fit* the sites for building. Ordinary cases will fall within the scope of clause 11. Clauses 10, 12 and 13 relate to unhealthy sites of different kinds, where special precautions must be taken to prevent injury to health of the occupants of the intended buildings. Where a site has been filled up with, or used as a “tip” for, material impregnated with animal or vegetable matter, no building can be safely erected upon it until it has been excavated to a sufficient depth to get rid of all contaminated soil, or a sufficient time has elapsed to render the deposit innocuous. What length of time will be necessary will obviously depend on the character of the deposit, etc. Any kind of faecal matter is especially dangerous to health in this respect, and sites filled up with material including such matter should be thoroughly excavated even after the lapse of a considerable time.

Places where 53 & 54 Vict. c. 59, s. 25, is in force.—It is some indication of the value of clause 10 that its provisions should have been incorporated in the Public Health Acts Amendment Act, 1890 (see s. 25), with the same penalties as may be imposed by byelaws under s. 157 of the Public Health Act, 1875. Where, however, s. 25 of the Act of 1890 has been adopted

* For model byelaws under the Act of 1890 on subjects other than streets and buildings see “Model Byelaws,” Vol. II.—London: Shaw & Sons, and Butterworth & Co.

† As to places in which s. 25 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), or any similar enactment is in force, see third note on this page.

by an urban or rural district council, or where, by an order of the Local Government Board, s. 25 has been put in force in a rural district,* clause 10 must be omitted from the series. It must also be omitted in cases where any enactment similar to s. 25 of the Act of 1890 is in force.

Person who erects a new building.—In the case of *Brown v. Edmonton Local Board* (1881), 45 J. P. 553 (S. C. *Brown v. Harrison* (1880), 44 J. P. 90, at Quarter Sessions), the question arose as to who was the person erecting under the following circumstances: White had entered into an agreement with Brown to build some eighty houses in the metropolis, according to plans which Brown deposited with the local board. Brown built about fifty of the houses, and then left the rest to be built by Brand, and did not interfere further. Brand violated the byelaws, and Brown, as the depositor of the plans, was convicted and fined by the justices as the person erecting the building contrary to the byelaws. It was held by the Queen's Bench Division that Brown could not be deemed the person erecting, after having ceased to superintend the building, and that the conviction was bad. See also *Sunderland (Mayor, etc. of) v. Brown* (1880), 44 J. P. 831, *ante*, p. 68. In *Bennett v. Skegness Local Board* (1890), 54 J. P. 469, it appeared that B., being the owner of waste ground in an urban district, put a wooden fence along the boundary without floor or roof. He let the place to R., who sold toys during the seaside season, but forbade him to affix anything to the structure. R., without B.'s knowledge, stretched canvas across the top of the fence while selling toys, and left the premises in September, 1889. Three days later B. was charged with erecting a wood building contrary to the byelaws, and convicted. It was held that the conviction was wrong, on the ground that the erection was against his consent and without his knowledge.

11. Every person who shall erect a new domestic building shall cause the whole ground surface within the external walls of such building to be properly asphalted or covered with a layer of good cement concrete, at least *six inches* thick or *four inches* thick if properly grouted.

Sites to be
asphalted or
concreted.

Asphalting or concreting of sites.—The form of this clause has been amended as printed above, in order to avoid some ambiguity attaching to the use of the expression “ground surface *or site*” in the previous form of byelaw, and so as to admit of a less thickness than six inches of concrete being put in, in cases where the concrete is grouted over the surface. Four inches, however, is the minimum thickness which should be proposed. “All soils contain a certain amount of air, the actual percentage depending on the looseness or otherwise with which the constituent particles are packed together. Many rocks, particularly the softer varieties, also contain air, only the very densest forms being practically free from it. . . . The subterranean atmosphere which exists in the soil is in continual movement. . . . Beneath buildings such movements of the ground air may be very active, particularly in the case of houses that are artificially warmed, the air which then passes up from below being often drawn from considerable depths, so that, in the case of houses which have been built upon made soils especially, much unhealthiness may result from the aspiration of foul air from the impure soil beneath, unless

* See ss. 3 and 5 of the Act.

the precaution be taken of covering the site with an impermeable layer of asphalté or concrete.” Dampness of site also has important relations to the occurrence of phthisis, rheumatism, respiratory diseases, diphtheria, and other ailments.* The importance of this clause to health, therefore, is very great; and there is probably no case in which the covering of the site with asphalté or concrete could be regarded as wholly unnecessary. The concrete or asphalté layer, if provided, may be utilised for the formation of cellar floors.

Excavated
sites.

12. In every case where the intended site of a new building may have been or may have formed part of a clay-pit, or where, by reason of excavation and the removal of earth, gravel, stones, or other materials from such site, the whole or any part of the surface thereof may be at such a depth below the level of the surface of the ground immediately surrounding and adjoining such site as may render the elevation of the whole or part of the existing surface of such site necessary for the prevention of damp in any part of any building to be erected thereon:—A person shall not construct any foundation of a new building upon such site or upon such part thereof as, for the purpose aforesaid, may require elevation, unless and until there shall have been properly deposited thereon a layer or layers of sound and suitable material sufficient to elevate such site or such part thereof to an adequate height, and to form a stable and healthy substratum for such foundation.

“**Excavated sites.**”—The above clause provides for cases where, for the purpose of brickmaking, large quantities of clay have been removed from land on which it is proposed to erect buildings, or where in other ways “by reason of excavation and the removal of earth, gravel, stones, or other materials” from the site of an intended building, the artificial raising of the site becomes necessary, “for purposes of health.”

Low-lying
sites.

13. In every case where the intended site of a new building may be [at a height less than *feet* above ordnance datum] [within an area bounded by]† a person shall not construct any foundation of such building, unless and until there shall have been properly deposited upon the site a layer or layers of sound and suitable material sufficient to elevate such site to a height at least *feet* above the ordnance datum, and to form a stable and healthy substratum for such foundation; or

* See “The Influence of Soil on Health,” by Dr. S. Monckton Copeman, in Drs. Stevenson and Murphy’s “Treatise on Hygiene and Public Health.”—London: J. and A. Churchill.

† Here insert alternatively the height below which, or a description of the boundaries of the area to which the requirements of the byelaw are to apply.

unless he shall so erect the building upon cement concrete, masonry, or brickwork, or other suitable and sufficient supports, that the floor of the lowest storey shall be at least *feet* above the ordnance datum.

Low-lying sites.—This clause, which is applicable only to areas containing low-lying sites, should be omitted if not required. It is drawn with the same general object as No. 12, viz., the utilisation of sites which in themselves are too low to be healthy. That clause deals with sites on which excavation has taken place; clause 13 with sites naturally low-lying, and probably marshy, as, for example, on the banks of rivers. Where this clause is adopted, the council, in filling it up, should carefully consider the requirements of their district in the light of local knowledge as to the height to which floods may extend, and the area or areas liable to be affected by them. In districts in which the water levels vary little, as in those of small extent or in flat districts near to the sea or to a tidal river, it may often suffice to specify only the height above ordnance datum below which the byelaw comes into force, without defining an area, otherwise than by the height. But in districts of varying level, in which the liability to flooding of different parts is affected by local conditions other than the height above sea level—as by obstructions to the flow of water in a river—it may be necessary to define an area comprising the part liable to be flooded, and to limit the byelaw to this area. In some districts containing a considerable length of river course, it may, indeed, be necessary to define two or more such areas, and to specify a different height in each area. If a description of an area to which the byelaw is to apply is given, it should be made with reference to a continuous boundary, the course of which should be such as can be readily identified. It will facilitate the consideration of the clause if the Local Government Board are furnished with a map on which any such proposed boundary is accurately and distinctly marked.

14. Every person who shall erect a new building shall, except in such cases as are hereinafter specified, cause the external and party walls thereof to be constructed of good bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together :—

Structure of enclosing walls.

- (i.) With good mortar compounded of good lime and clean sharp sand, or other suitable material; or
- (ii.) With good cement; or
- (iii.) With good cement mixed with clean sharp sand.

*Provided always :—

- (a) That such person may construct any external wall of such building as a hollow wall, if such wall be constructed in accordance with the following rules :—

Proviso for hollow walls.

- (i.) The inner and outer parts of the wall shall be separated by a cavity, which shall throughout

* See notes on pp. 82 and 83, *post*.

be of a width not exceeding *two and a half inches*, and shall be properly drained and ventilated.

- (ii.) The inner and outer parts of the wall shall be securely tied together with suitable bonding ties of adequate strength formed of galvanised iron, of iron tarred and sanded, or of glazed stoneware. Such ties shall be placed at distances apart not exceeding *three feet* horizontally and *eighteen inches* vertically.
- (iii.) The thickness of each part of the wall shall throughout be not less than *four and a half inches*.
- (iv.) The aggregate thickness of the two parts, excluding the width of the cavity, shall throughout be not less than the minimum thickness prescribed by the byelaw in that behalf for an external wall of the same height and length, and belonging to the same class of building as that to which the hollow wall belongs.
- (v.) All woodwork which may be intended to form the head of a door-frame or window-frame, a lintel, or other similar structure, and may be inserted in the wall so as to project into or extend across the intervening cavity, shall be covered throughout on the upper side thereof with a layer of sheet lead or other suitable material impervious to moisture in such a manner as effectually to protect such woodwork from any moisture that may enter the cavity.

Proviso for
timber-
framed walls
of detached
dwelling-
houses.

- (b) That where a new building intended for use as a dwelling-house shall be distant not less than *fifteen feet* from any adjoining building not being in the same curtilage, the person erecting such new building may construct its external walls of timber-framing, subject to compliance with the following conditions that is to say:—

- (i.) The timber-framing shall be properly put together, and the spaces between the timbers shall be filled in completely with brickwork or other solid and incombustible material.

- (ii.) A thickness of at least *four and a half inches* of brickwork or other solid and incombustible material shall be placed at the back of every portion of timber.

- (c) That where a new building forms or is intended to form part of a block of new buildings which shall be intended for use as dwelling-houses, and shall not exceed *three* in number, and each of which shall be distant not less than *fifteen feet* from any adjoining building not being in the same curtilage and not forming part of the same block, the person erecting such new building may construct its external walls of timber-framing, subject to compliance with the following conditions, that is to say :

Proviso for timber-framed walls of dwelling-houses not detached.

- (i.) The several buildings shall be separated by party walls, each of which shall be constructed in accordance with the requirements of the bye-laws in that behalf, and shall project at least *one inch* in front of any timber-framing in any adjoining external wall.
- (ii.) The timber-framing shall be properly put together, and the spaces between the timbers shall be filled in completely with brickwork or other solid and incombustible material.
- (iii.) A thickness of at least *four and a half inches* of brickwork or other solid and incombustible material shall be placed at the back of every portion of timber.

- (d) That where a new building which comprises *two* or more storeys forms, or is intended to form, part of a block of new buildings which shall be intended for use as dwelling-houses, and shall not exceed *three* in number, and each of which shall be distant not less than *fifteen feet* from any other building not being in the same curtilage and not forming part of the same block, the person erecting such new building may construct the external walls of the topmost storey or, if the building comprises more than *two* storeys, of the topmost *two* storeys, of timber-framing covered with tiles, subject to compliance with the following conditions, that is to say :

Proviso for tile-hung walls of dwelling-houses.

- (i.) The timber-framing shall be properly put together, with sufficient braces, ties, plates, and sills.

- (ii.) So much of any external wall as is below that portion which may be of timber-framing covered with tiles, shall be constructed of the same thickness and in other respects subject to the same conditions as would be applicable if the wall had been constructed throughout its whole height of good bricks, stone, or other hard and incombustible materials.
- (iii.) Every party wall in any such block of buildings shall be carried out at least to the external face of any timber-framing in any adjoining external return wall.

Structure of walls.—Section 157 of the Public Health Act, 1875, authorises byelaws to be made with respect to the structure of walls, (*a*) for securing stability, (*b*) for the prevention of fires, and (*c*) for purposes of health. Clause 14, the first of the model clauses relating to walls, is a byelaw for securing the first two of these objects, so far as regards the external and party walls of a building. Besides the use of proper materials, the clause aims at proper methods of “bonding.” The structure of cross-walls is regulated by clause 24.

Bonding of walls.—The bonding of a wall consists in the interlacing of the bricks or other component portions of the mass, so as to secure that each brick or stone is supported by as many others as possible. It may be otherwise described as such a method of disposing the bricks or stones in the construction of the wall, that it shall be as strong as possible in the direction of its length, while incapable of separating in thicknesses. The two methods of bonding commonly used in this country, viz., “Flemish bond” and “English bond,” are shown in the diagrams (Plate I., Figs. 2 and 3).

Composition of mortar, etc.—It is obviously necessary, as well in the interests of health as for securing stability, that the cementing material of a wall should be of good quality. Want of proper attention to this matter, might, in some cases, result in the use in the composition of mortar, of sand impregnated with salt, causing the walls to be damp for an indefinite period. But still more objectionable substances than this may, in country districts, find their way into the composition, if the builder is not carefully supervised. The model byelaw does not specify the proportions in which the prescribed materials are to be combined: it merely requires that the materials shall in themselves be good and suitable, and the district council have a practically free hand as to other details. If, however, the council thought well to specify these proportions, the addition of the necessary words would probably be allowed by the Local Government Board. *One part* by measure of lime to *three parts* of sand, etc. may be suggested for paragraph (i.), and *one part* by measure of cement to *four parts* of sand for paragraph (iii.) of the main clause.

Application of the byelaw.—See decisions on what is a “new building,” *ante*, pp. 50—53. In *Badley v. Cuckfield Rural District Council* (1895), 64 L. J. Q. B. 571; 72 L. T. 775; 43 W. R. 663; 59 J. P. 582, it was held that a byelaw

referring to the enclosing (*i.e.*, the external and party) walls of a building applied to a building enclosed with walls constructed of materials other than bricks or stone; and that a building intended for residential purposes, and consisting of a wooden framework to which was attached externally a layer of felt, and then corrugated sheets of galvanised iron 1-32nd part of an inch thick, and internally a lining of match boarding which directly enclosed the room, was not enclosed with walls constructed of hard and incombustible materials.

Reasonableness of byelaw.—The reasonableness of the byelaw (No 11 of the previous model series) for which the present clause is substituted was called in question in *Salt v. Scott Hall* (1903), 2 K. B. 245; 72 L. J. K. B. 627; 88 L. T. 868; 52 W. R. 95; 67 J. P. 306; 1 L. G. R. 753, and *Pomeroy v. Malvern Urban District Council* (1903), 89 L. T. 555; 67 J. P. 375; 1 L. G. R. 825. As previously framed, the clause required that every new building should be “enclosed with walls constructed of good bricks, stone, or other hard and incombustible materials, properly bonded and solidly put together with good mortar . . . or with good cement,” etc. In these cases, though the court, following *Badley v. Cheshfield Rural District Council*, *supra*, held that the byelaws could not be treated as unreasonable, evidently disapproved of their “uncompromising and absolute form.” In the former case, the Lord Chief Justice is reported to have said: “It was stated that these are the model byelaws which have been adopted in urban districts with the sanction of the Local Government Board. Of course there must be many places in which such a byelaw would be a most salutary and prudent one. Therefore, when I say that it would be more satisfactory if these byelaws contained a dispensing power, I do not mean to say that under any circumstances such a byelaw might not be most useful and salutary, and most reasonable; but, even as it stands, I should hesitate a great deal before holding that this byelaw is unreasonable.” And CHANNELL, J., said, “Such byelaws must not be set aside entirely as unreasonable, because the magistrates must be trusted to exercise the power which they in fact possess, of dealing with exceptional cases, when they arise, under s. 16 of the Summary Jurisdiction Act, 1879, either by inflicting a merely nominal penalty, or if they think fit, by saying that the particular offence is of too trifling a character to require any punishment or penalty at all. It is because the magistrates have these powers that it is unnecessary to say these byelaws, which unfortunately omit to provide specially on their face for exceptional circumstances, must necessarily be set aside because exceptional cases may arise.” In connection with these observations, it is important to note that the byelaw, in the form adopted by the district council in each case, was practically the present clause *without the provisoes*. See also the note below.

Buildings not of brick, stone, etc.—In the case of certain rural districts, the Local Government Board have lately allowed, in the form of exemption clauses, a specimen of which will be found on p. 179, byelaws permitting the erection of small buildings of limited capacity, with no restriction as to the materials of which the walls (other than the party walls, if any) may be constructed, the object being to avoid interference with any *bona fide* scheme for the provision of cheap dwellings for agricultural labourers and others, or for temporary purposes. These clauses were assented to only where local conditions appeared to justify their allowance; and it is not to be expected that clauses to the like effect would be allowed in the case of any urban district. They need not, therefore, be referred to here in detail. Reference

may be made to the note on p. 178. Walls of timber-framing filled in, and backed with “solid and incombustible material,” or (in the case of upper storeys) of timber-framing covered with tiles, are, however, allowed by the present clause, subject to the conditions specified in the provisoes. (See notes below.)

Steel-framed buildings.—The Local Government Board state that they have not included in their model series “any provision allowing walls to be constructed of steel-framing; but would be prepared to consider a proviso allowing this form of construction.” If the local authority should receive plans of an intended new building to be constructed in this manner, they would have to consider the necessity of modifying their byelaws so as to permit of such a building being erected. Until byelaws for the purpose have been submitted to, and revised by the Local Government Board, however, it is impossible to indicate the character of the clauses which they would approve.

Hollow walls.—Proviso (*a*) to model clause 14 permits the erection of buildings with hollow external walls constructed of hard and incombustible materials. Hollow walls, “if properly constructed, . . . greatly promote the comfort and dryness” of houses, especially in exposed situations. “Other means of securing the same condition of dryness have been contrived with more or less success, such as a vertical damp-proof course of slates, or of asphalte or other bituminous substance. Compo, or tiles, or slates are sometimes used on the outer face of the wall for the same purpose.”* The regulations in this byelaw as to width of cavity, and the strength, material, and distribution of bonding ties are of great importance as affecting the stability of these walls.

The *bonding ties* should be so placed that the ties in alternate courses shall be in the same vertical line.

The requirements as to protecting woodwork from damp and as to the draining and ventilation of the cavity also deserve mention.

Half-timber walls.—The objection to these walls is, on the score of stability, that the structure is a combination of materials of totally different capabilities as regards tension, compression, etc., and, with respect to the spread of fire, that the framing is of a highly combustible material. These objections are sought to be met, in provisoes (*b*) and (*c*) to model clause 14, by requiring that the timber-framing shall be “properly put together”—a phrase which has the advantage of leaving the local authority a practically free hand in the matter—and that not only shall the spaces between the timbers be completely filled in with brickwork or other solid and incombustible material, but that throughout there shall be not less than four and a half inches of brickwork or other solid and incombustible material behind the timber on the inner face of the wall. The danger of the spread of fire is further reduced by prohibiting the use of timber-framing for the walls of any house which comes within *fifteen feet* of any building not in the same curtilage or in the same block; by not permitting the erection of more than three houses in one block where any of them is constructed in half-timber

* See “The Dwelling,” by Mr. P. Gordon Smith, F.R.I.B.A., and Mr. Keith D. Young, F.R.I.B.A., in Drs. Stevenson and Murphy’s “Treatise on Hygiene and Public Health.”

work, and if such blocks are built, by requiring the party walls to be brought out at least *one inch* in front of any timber-framing.

Tile-hung walls.—Proviso (*d*) admits of the construction of “tile-hung” walls. Its effect is that in the case of detached or semi-detached dwelling-houses of two or more storeys, or blocks of not more than three such houses, which are situated with regard to fires at a safe distance from other buildings, the external walls of the topmost storey, or two topmost storeys, may be constructed of timber-framing covered with “weather-tiling,” if the part of each wall below this tiling is constructed (*e.g.*) of brickwork or stonework, and is of the same thickness, etc., as though the wall were throughout of brickwork or stonework only.

15. Every person who shall erect a new building shall construct every cross wall, which, in pursuance of the byelaw in that behalf, may, as a return wall, be deemed a means of determining the length of any external wall or party wall of such building, of good bricks, stone, or other hard and incombustible materials properly bonded and solidly put together :—

Structure of cross walls.

- (i.) With good mortar compounded of good lime and clean sharp sand, or other suitable material ; or
- (ii.) With good cement ; or
- (iii.) With good cement mixed with clean sharp sand.

Structure of cross walls.—The requirements of this clause are identical, as regards the cross walls to which it refers, with the requirements as to external and party walls prescribed by the first part of clause 14. It does not apply to all cross walls, but only to such as, under clause 21, are to be considered as determining the length of external and party walls (see notes on clauses 21 and 24). Hence, for example, it does not prevent the construction of “partitions” of timber-framing, etc., in the interior of the building. As to the composition of mortar, see separate note on p. 80.

Plastering of walls.—There would seem to be no authority in s. 157 of the Public Health Act, 1875, for a byelaw regulating the plastering of walls. Such a byelaw would seem not to be a byelaw “with respect to the structure of walls,” within the meaning of s. 157 (2) of the Public Health Act, 1875, the plastering of a wall not forming any part of its “structure.”

16. A person who shall erect a new building shall not construct any wall of such building so that any part of such wall, not being a part properly corbelled out, or supported, or a projection intended solely for the purposes of architectural ornament, shall overhang any part beneath it.

Overhanging walls and projections.

Wall not to overhang.—This clause takes the place of the byelaw numbered 13 in the series as originally issued, which was too restrictive.

Byelaws as to cornices, etc.—It would seem that there is nothing in the Public Health Acts to authorise the making of a byelaw regulating the construction of cornices, etc., with a view to securing stability.

Bonding of
return walls
with other
walls.

17. Every person who shall erect a new building shall cause every wall of such building which may be built at an angle with another wall to be properly bonded therewith.

Bonding of return walls with other walls.—The object of this provision is to secure for any wall with which a return wall may be connected, the utmost possible support from the return wall. This is especially important in connection with the provision in clause 21 to the effect that walls are to be deemed to be divided into distinct lengths by return walls, and the consequent reduction of thickness allowed by the model series where a wall is so deemed to be divided.

Footings of
walls.

18. Every person who shall erect a new building shall construct every wall of such building so as to rest upon proper footings, or upon a sufficient bressummer.

He shall cause the projection at the widest part of the footings (if any) of every wall, on each side of such wall, to be at least equal to *one-half* of the thickness of such wall at its base, unless an adjoining wall interferes, in which case the projection may be omitted where the wall adjoins.

He shall also cause the diminution of the footings to be in regular offsets, or in one offset at the top of the footings, and he shall cause the height from the bottom of the footings to the base of the wall to be at least equal to *two-thirds* of the thickness of the wall at its base.

Footings.—Stability, even more than strength, is a matter requiring consideration in connection with the walls of new buildings. A wall of less thickness than that prescribed by the model clauses might be sufficient to bear a load greater than the thicker wall is likely to be called upon to bear; but if the thickness were reduced, the stability of the wall would be affected by the narrowness of its base. The provision of proper footings increases the stability of the wall by increasing the width of its bearing within or upon the ground or other foundation. The *projection* of the footings should, as in the model clause, be regulated directly or indirectly by the thickness of the wall at its base (see Plate II., Fig. 4, Appendix). In brick walls the projection of each course of footings should, as a rule, be equal to not more than a quarter of a brick. To do this would in some cases give a rather greater depth or height of footings than is required by the model clause. It will be seen, however, that the byelaw fixes a height equal to two-thirds of the thickness of the wall at its base as a *minimum*. Where the wall is built of brick or stone the joints in the footings should be thrown as far back within the work as possible, and additional strength may be gained by a double course at the lowest part of the footings.

Buildings erected close up to boundary line of site.—It has been pointed out that in order to comply with this byelaw, in the case of a building one wall of which is built close up to, or upon the boundary line of the site, the footings on the outer side of the wall must be constructed within the lands of the adjoining owner; and that if, in order to avoid this, the

builder sets back the wall within his boundary, to the extent of the projection of the footings, the effect, when the next house is built, may be to form a cavity between the houses in which damp will collect, besides requiring two walls where a single (party) wall would suffice. Cases in which any difficulty would be experienced in connection with the construction of proper footings on the outer side of a wall constructed close up to the boundary must be very rare. But the byelaw cannot be altered so as to provide for the matter. It should be met by arrangement between the adjoining owners.

19. Every person who shall erect a new building shall cause the footings (if any) of every wall of such building to rest on the solid ground, or upon a sufficient thickness of good concrete, or upon some solid and sufficient sub-structure, as a foundation. Foundations of walls.

Foundations of walls.—As to the meaning of the term “foundation,” see note on p. 74. Where the soil is not of a suitable character for foundations the words “on the solid ground, or” should be omitted. Natural foundations should only be used where the soil is both compact and of uniform consistence; otherwise unequal settlement must take place, with all that this implies. In unreliable soils, therefore, the use of concrete should be insisted upon. Artificial support may, in some cases, be supplied in the form of some such “solid and sufficient sub-structure” as the bases of former walls, or by arches, girders, timber piles, or other similar means.

20. Every person who shall erect a new public building or a new domestic building shall cause every wall of such building to have a proper damp-proof course of sheet lead, asphalte, or slates laid in cement, or of other not less durable material impervious to moisture, beneath the level of the lowest floor, and at a height of not less than *six inches* above the surface of the ground adjoining such wall. Damp-proof course.

Provided always that where any part of a floor of the lowest storey of such building, not being a cellar adapted and intended to be used for storage purposes only, shall be intended to be below the level of the surface of the ground immediately adjoining the exterior of such storey, and so that the ground will be in contact with the exterior of any wall, he shall cause such storey or such part thereof as will be so in contact to be constructed with walls impervious to moisture, or with hollow walls constructed in accordance with the requirements of the byelaw in that behalf,* and extending from the base of such walls to a height of *six inches* at least above the surface of the ground immediately adjoining the exterior of such storey. Proviso as to basement walls.

He shall also cause a proper damp-proof course of sheet lead, asphalte, or slates laid in cement, or of other not less durable

* *I.e.*, clause 14, proviso (a), p. 77, *ante*.

material impervious to moisture, to be inserted in every such hollow wall at the base of such wall and likewise at a height of *six inches* above the surface of the ground immediately adjoining.

Prevention of damp in walls.—The provision of a proper damp-proof course is a necessary feature in the construction of a wall “for purposes of health.” (See Plate II., Figs. 5, 6 and 7, Appendix.) In the case, however, of houses with basement storeys, where the walls will be in contact with the ground outside, it would not be sufficient to require the provision of a damp-proof course below the level of the lowest timbers, unless the wall were so constructed (as by means of an external casing of impervious material) as to be impervious to moisture. Hence the model clause, as now drawn, requires that if, in such circumstances, the walls are not impervious to moisture, they shall, from the base upwards to a height of six inches above the surface of the ground immediately adjoining the exterior of the walls, be double, with an intervening cavity not more than two and a half inches in width. If such an arrangement be adopted, there are to be two damp-proof courses, one at the base of the wall, and one six inches above the level of the surface of the ground. (See Plate II., Fig. 7, Appendix.)

The amended model byelaw does not apply to “buildings of the warehouse class,” as defined in clause 1.

Damp in chimney stacks and parapets.—Messrs. P. Gordon Smith and Keith D. Young (Art. “The Dwelling,” in Stevenson and Murphy’s “Treatise on Hygiene and Public Health”) recommend the provision in certain cases of a damp-proof course in chimney stacks and parapets, in order to prevent damp from driving rain soaking downwards from the exposed upper portions of walls of buildings. A byelaw requiring this might perhaps be regarded as one “with respect to the structure of walls . . . and chimneys of new buildings for purposes of health.”

Height of
storeys, and
height and
length of
walls, how
measured.

21. For the purposes of the byelaws with respect to the structure of walls of new buildings, the measurement of height of storeys and of height and length of walls shall be determined by the following rules:—

- (i.) The height of a storey shall be measured in the case of the lowest storey of a building from the base of the wall, and in the case of any other storey from the level of the upper surface of the floor of the storey up to the level of the upper surface of the floor of the storey next above it; or if there be no such storey, then up to the highest part of the containing walls:
- (ii.) The height of a wall shall be measured from the base to the highest part of the wall, or in the case of a wall comprising a gable, to half the height of the gable: Provided that in the case of a party wall comprising a gable the measurement shall be from the base of the wall to the level of the base of the gable.

(iii.) Walls shall be deemed to be divided into distinct lengths by return walls. The length of a wall shall be measured from the centre of one return wall to the centre of another, provided that the return walls are external walls, party walls, or cross walls, of the thickness prescribed by the byelaws, and are bonded into the walls so deemed to be divided.

A wall shall not, for the purpose of this rule, be deemed a cross wall unless it is carried up to the top of the wall so deemed to be divided (or in the case of a gable wall to the level of the base of the gable), and unless in each storey the aggregate extent of the vertical faces or elevations of all the recesses and that of all the openings therein, taken together, shall not exceed *one-half* of the whole extent of the vertical face or elevation of the wall in such storey.

Stability of walls.—The stability of walls, otherwise properly constructed on good foundations, and the materials and method of construction being similar, varies inversely in proportion to the height and length of the walls, and directly in proportion to their thickness. The byelaws take account of all three dimensions; but it is the thickness only which they can actually regulate. Two separate sets of rules are prescribed—one for “domestic buildings” (clauses 22 and 24), and another for “public buildings” and “buildings of the warehouse class” (clauses 23 and 24)—and the thickness of walls of other than ordinary construction, is regulated by the special clause, No. 25. The clause now under consideration prescribes the *criteria* for ascertaining the height and length of any wall, so as to determine the application of the rules laid down in clauses 22 to 25.

Height of a storey.—The rules in the succeeding clauses are so framed as to make it necessary that the point at which one storey is to be deemed to end, and the next above it to commence in the vertical plane, should be precisely determined. The effect of clause 21 (i.) is to include in the lowest storey all the space between the base of the wall, defined in clause 1, and the upper surface of the floor of the storey next above the lowest storey; in the case of any other storey except a topmost storey, all the space between the upper surface of the floor of the storey and the upper surface of the floor above, and in the case of a topmost storey all the space between the upper surface of the floor and the level of the highest part of the walls “containing” the storey. Special provision is made in clauses 22 and 23 for the measurement of the height of storeys for the purpose of those clauses. (See pp. 91 and 96.)

Height of a gable wall.—The model byelaw, as here printed, makes an important concession as regards *party* gable walls. Their thickness is to depend upon their height; and formerly the height, in the case of *any* gable wall, was to be measured up to the level of *half the height* of the gable. “The level of the *base* of the gable” is now substituted in the case of a party wall. But this only affects the measurement of height for determining the *thickness* of a party gable wall: the wall, being a party wall, must be *carried up* above, or to the underside of the roof covering, as required by clause 28 (A) or (B). See the remarks on p. 92, *post*.

Length of a wall.—In a building, where one wall is connected with another, the walls may be considered in reference to their stability, otherwise than as independent walls. The byelaw recognises this by providing that walls shall be deemed to be divided into distinct lengths by “return walls.” A return wall is a wall which is connected with another wall at an angle. Walls so connected afford each other lateral support, the support being greatest where the connection is at right angles. For the purposes of the byelaws, no “cross wall” can be treated as a return wall, unless “carried up to the top of the wall” whose length it is to be deemed to divide “or in the case of a gable wall to the level of the base of the gable.” Formerly the byelaw did not allow a cross wall to be regarded as a return wall dividing another wall into distinct lengths, unless the cross wall were “carried up to the top of the topmost storey,” which might be a storey wholly or partly in the roof. It will be seen that there is a considerable concession here. The conditions prescribed by the clause as to the extent of any recesses or openings in the wall must, however, be complied with. The construction of external and party return walls will be regulated, where the model byelaws are in force, by clauses 14, 22, 23, and 25, and that of such cross walls as may be taken into account as return walls by clauses 15, 24, and 25. Cross walls not complying with the requirements of the byelaws may be erected; but they cannot be regarded as affording such support to party or external walls, as to be taken into account in connection with clause 21 (iii.).

Domestic
buildings.
Thickness of
external and
party walls.

22. Every person who shall erect a new domestic building shall construct every external wall and every party wall of such building in accordance with the following rules, and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed, and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or of suitable stone, or other blocks of hard and incombustible substance, the beds or courses being horizontal.

Height up to
25 feet.

(a) Where the wall does not exceed *twenty-five feet* in height its thickness shall be as follows:—

If the wall does not exceed *thirty feet* in length, it shall be *nine inches* thick for its whole height:

If the wall exceeds *thirty feet* in length, it shall be *thirteen and a half inches* thick from the base for the height of the lowest storey, and *nine inches* thick for the rest of its height.

Height up to
30 feet.

(b) Where the wall exceeds *twenty-five feet* but does not exceed *thirty feet* in height its thickness shall be as follows:—

If the wall does not exceed *thirty-five feet* in length, it shall be *thirteen and a half inches* thick from the base

for the height of one storey, and *nine inches* thick for the rest of its height.

If the wall exceeds *thirty-five feet* in length it shall be *thirteen and a half inches* thick from the base for the height of two storeys, and *nine inches* thick for the rest of its height.

- (c) Where the wall exceeds *thirty feet* but does not exceed *forty feet* in height its thickness shall be as follows :— Height up to 40 feet.

If the wall does not exceed *thirty-five feet* in length it shall be *thirteen and a half inches* thick from the base for the height of two storeys, and *nine inches* thick for the rest of its height :

If the wall exceeds *thirty-five feet* in length it shall be *eighteen inches* thick from the base for the height of one storey, then *thirteen and a half inches* thick for the height of two storeys, and *nine inches* thick for the rest of its height.

- (d) Where the wall exceeds *forty feet* but does not exceed *fifty feet* in height its thickness shall be as follows :— Height up to 50 feet.

If the wall does not exceed *thirty feet* in length it shall be *eighteen inches* thick from the base for the height of one storey, then *thirteen and a half inches* thick for the height of two storeys, and then *nine inches* thick for the rest of its height :

If the wall exceeds *thirty feet* but does not exceed *forty-five feet* in length it shall be *eighteen inches* thick from the base for the height of two storeys, and *thirteen and a half inches* thick for the rest of its height :

If the wall exceeds *forty-five feet* in length it shall be *twenty-two inches* thick from the base for the height of one storey, then *eighteen inches* thick for the height of the next storey, and then *thirteen and a half inches* thick for the rest of its height.

- (e) Where the wall exceeds *fifty feet* but does not exceed *sixty feet* in height its thickness shall be as follows :— Height up to 60 feet.

If the wall does not exceed *forty-five feet* in length it shall be *eighteen inches* thick from the base for the height of two storeys and *thirteen and a half inches* thick for the rest of its height :

If the wall exceeds *forty-five feet* in length it shall be *twenty-two inches* thick from the base for the height of

one storey, then *eighteen inches* thick for the height of the next two storeys, and then *thirteen and a half inches* thick for the rest of its height.

Height up to
70 feet.

(f) Where the wall exceeds *sixty feet* but does not exceed *seventy feet* in height its thickness shall be as follows :—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick from the base for the height of one storey, then *eighteen inches* thick for the height of the next two storeys, and then *thirteen and a half inches* thick for the rest of its height :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision hereinafter contained respecting distribution in piers).

Height up to
80 feet.

(g) Where the wall exceeds *seventy feet* but does not exceed *eighty feet* in height its thickness shall be as follows :—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick from the base for the height of one storey, then *eighteen inches* thick for the height of the next three storeys, and then *thirteen and a half inches* thick for the rest of its height :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision hereinafter contained respecting distribution in piers).

Height up to
90 feet.

(h) Where the wall exceeds *eighty feet* but does not exceed *ninety feet* in height its thickness shall be as follows :—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick from the base for the height of one storey, then *twenty-two inches* thick for the height of the next storey, then *eighteen inches* thick for the height of the next three storeys, and then *thirteen and a half inches* thick for the rest of its height :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision hereinafter contained respecting distribution in piers).

- (i) Where the wall exceeds *ninety feet* but does not exceed *one hundred feet* in height its thickness shall be as follows:— Height up to 100 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick from the base for the height of one storey, then *twenty-two inches* thick for the height of the next two storeys, then *eighteen inches* thick for the height of the next three storeys, and then *thirteen and a half inches* thick for the rest of its height:

If the wall exceeds *forty-five feet* in length it shall be increased in thickness in each of the storeys below the uppermost two storeys by *four and a half inches* (subject to the provision hereinafter contained respecting distribution in piers).

Provided that notwithstanding anything contained in the foregoing rules (a) to (i) inclusive—

- (i.) Every external and party wall of any storey which measured from the level of the floor of that storey to the level of the floor of the storey next above it, if any, exceeds *eleven feet* in height shall be not less than *thirteen and a half inches* in thickness; and
- (ii.) If any storey exceeds in height *sixteen* times the thickness hereinbefore prescribed for its walls, the thickness of each external and party wall throughout that storey shall be increased to *one-sixteenth* part of the height of the storey, and the thickness of each external wall and of each party wall below that storey shall be proportionately increased (subject to the provision hereinafter contained respecting distribution in piers).

Provided further that where in accordance with the requirements of this byelaw an increase of thickness is required in the case of a wall exceeding *sixty feet* in height and *forty-five feet* in length or in the case of a storey exceeding in height *sixteen* times the thickness prescribed for its walls or in the case of a wall below that storey, the increased thickness may be confined to piers properly distributed, of which the collective widths amount to *one-fourth* part of the length of the wall. The width of the piers may nevertheless be reduced if the projection is proportionately increased, the horizontal sectional area not being diminished; but the projection of any such pier shall in no case exceed *one-third* of its width.

Thickness of walls of “domestic buildings.”—The present (amended) form of byelaw regulates the thickness of the enclosing walls of new “domestic buildings,” when built of brick, or stone, or other blocks of hard

and incombustible substance, in horizontal courses.* The thickness of external and party walls of similar construction in the case of warehouse and public buildings† is dealt with in clause 23. Walls of which the materials are different, or in which the courses are not horizontal, will come within the terms of clause 25. The sets-off above the ground floor are in houses usually made on the inside face of the walls, leaving the outside in one face; but, if practicable, it may be considered better to set off equally from both faces, because of the better balance theoretically obtainable. Tabular statements of the thicknesses required by the byelaws are sometimes suggested as more convenient for reference than the precise rules embodied in the clauses. But however this may be, such tables should not form part of the series, although they might be printed as an appendix. A scale of thickness similar to that prescribed by the (amended) model clause has been adopted for buildings in the metropolis in the London Building Act, 1894. In some respects, however, the regulations contained in the byelaw are less stringent than those prescribed by the Act.

The amended clause embodies or gives effect to several important concessions. Thus—(i.) The requirements of sub-clauses (*a*) and (*b*), which relate to walls not exceeding thirty feet in height, have been made less stringent. This is of considerable importance in connection with the erection of small houses. (ii.) Formerly several of the sub-clauses required a prescribed thickness “below the topmost storey” (see note, p. 57); and “topmost storey” being so defined in (the original) clause 1 as to include a storey wholly in the roof, the thickness of the wall might have to be increased on account of a storey, no part of which was comprised in the wall. The fact that a storey is to be constructed in the roof will not now affect the question: the clause prescribes a thickness “from the base for the height of” one or more storeys, and a less thickness for the rest of the *height of the wall*. (iii.) The new method of regulating the height will be found to admit, in some instances (even where there is to be no storey in the roof) of the construction of parts of a wall of a less thickness than the previous byelaw required. (iv.) In the case of party walls comprising gables, the modification of clause 21, described on p. 87, prevents what in some cases have resulted under the provisions of the former clauses, viz., that a party wall comprising a gable (half the height of which had to be reckoned as part of the height of the wall) had to be constructed of greater thickness than the external walls on which it abutted. A further concession consists in the substitution of “eleven feet” for “ten feet” in what is now part (i.) of the first proviso. In connection with this clause, see Plates III., IV. and V. (Figs. 8, 9 and 10, Appendix).

Thickness of party walls.—The thickness prescribed by the model byelaws for party walls should not be regarded as too stringent, even for small buildings. It has not infrequently been proposed to allow four-and-a-half inch party walls in the case of cottages; but such a thickness as this must be held to be quite insufficient when the requirements of party walls are considered. In the first place as regards importance comes the question of preventing the spread of fire. A wall less than nine inches thick would be insufficient for safety in this respect, and it may be said generally that the larger the building, and the greater, consequently, the probable volume of

* The expressions “domestic building,” “external wall,” and “party wall,” are defined in clause 1. As to new buildings, see p. 50.

† See the definitions in clause

fire if the building became ignited, the greater should be the thickness of the party walls. The policy of the model clauses which make party walls follow the same rules as to thickness as external walls, seems, therefore, to be sufficiently justified on this ground alone. But it should also be borne in mind that the party walls of semi-detached and terraced houses have an important bearing on the stability of the whole block, by reason of the support which they give to the front and rear walls. Under s. 5 (6) of the London Building Act, 1894, the re-erection of a building which has been taken down for more than one-half of its cubical extent is the erection of a new building for the purposes of that Act; and under s. 159 of the Public Health Act, 1875 (see *ante*, p. 50), the re-erection of any building pulled down to or below the ground floor is the erection of a new building for the purposes of that Act. It may be well to mention, therefore, that in the case of *Crow v. Redhouse* (1895), 59 J. P. 663; 11 T. L. R. 563, it was held, on appeal from a divisional court (see 59 J. P. 851) that a person re-erecting a building destroyed by fire was not compelled to thicken the party wall, which had not been injured by the fire, so as to make it of the full thickness required by the London Act.

Application of the model byelaws to party walls.—The question here arises, what power have the local authority to interfere in a case where an existing wall, not complying with the requirements of the byelaws as regards party walls, is utilised by a builder as one of the “enclosing walls” of a new building? The “use” of a wall for this purpose constitutes it a “party wall” within the meaning of the byelaws (see paragraph (a) of the definition in clause 1). The provisions of clause 14 are so framed as to prevent the use as an enclosing wall of a new building, of a wall not constructed of incombustible materials. Clause 22 (or 23), however, would not apply, because the builder is not in this case “constructing” a party wall. The thickness of the wall, as a whole, therefore, cannot be required to be increased, if insufficient. But the thickness of chimney backs will be subject to the provisions of clause 42; and woodwork must not be placed in the wall contrary to the provisions of clauses 33 and 34. The height of the wall also, must, if necessary, be increased so as to comply with the requirement in clause 28 (A) or 28 (B) as to the height to which the builder is to “erect” the party walls of new buildings to be carried up. It will be seen from these observations, which are not exhaustive, that although the powers of the local authority under such circumstances may be limited, yet some important provisions of the byelaws must be complied with.

Provision respecting distribution in piers.—The provision on this subject referred to in clause 22 (f), (g), (h) and (i), and the first proviso, is contained in the second proviso to the model clause. The construction of piers adds to the stability of a wall by increasing the base on which the whole stands.

23. Every person who shall erect a new public building or a new building of the warehouse class shall construct every external wall and every party wall of such building in accordance with the following rules; and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed, and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or

Public and
warehouse
buildings.
Thickness of
external and
party walls.

of suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal.

Height up to
25 feet.

- (a) Where the wall does not exceed *twenty-five feet* in height (whatever is its length) it shall be *thirteen and a half inches* thick at its base.

Height up to
30 feet.

- (b) Where the wall exceeds *twenty-five feet* but does not exceed *thirty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *forty-five feet* in length it shall be *thirteen and a half inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *eighteen inches* thick at its base.

Height up to
40 feet.

- (c) Where the wall exceeds *thirty feet* but does not exceed *forty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *thirty-five feet* in length it shall be *thirteen and a half inches* thick at its base:

If the wall exceeds *thirty-five feet* but does not exceed *forty-five feet* in length it shall be *eighteen inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-two inches* thick at its base.

Height up to
50 feet.

- (d) Where the wall exceeds *forty feet* but does not exceed *fifty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *thirty feet* in length it shall be *eighteen inches* thick at its base:

If the wall exceeds *thirty feet* but does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-six inches* thick at its base.

Height up to
60 feet.

- (e) Where the wall exceeds *fifty feet* but does not exceed *sixty feet* in height it shall be at its base of the thickness following:—

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base:

If the wall exceeds *forty-five feet* in length it shall be *twenty-six inches* thick at its base.

- (f) Where the wall exceeds *sixty feet* but does not exceed *seventy feet* in height it shall be at its base of the thickness following :— Height up to 70 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

- (g) Where the wall exceeds *seventy feet* but does not exceed *eighty feet* in height it shall be at its base of the thickness following :— Height up to 80 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-two inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

- (h) Where the wall exceeds *eighty feet* but does not exceed *ninety feet* in height it shall be at its base of the thickness following :— Height up to 90 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

- (i) Where the wall exceeds *ninety feet* but does not exceed *one hundred feet* in height it shall be at its base of the thickness following :— Height up to 100 feet.

If the wall does not exceed *forty-five feet* in length it shall be *twenty-six inches* thick at its base :

If the wall exceeds *forty-five feet* in length it shall be increased in thickness from the base up to within *sixteen feet* from the top of the wall by *four and a half inches* (subject to the provision herein-after contained respecting distribution in piers).

- (j) The thickness of the wall at the top, and for *sixteen feet* below the top, shall be *thirteen and a half inches*, and the intermediate parts of the wall between the base and *sixteen feet* below the top shall be built solid throughout the space between straight lines drawn on each side of the wall and joining the thickness at the base to the thickness at *sixteen feet* below the top. Nevertheless, in walls not exceeding *thirty feet* in height the walls of the topmost storey may be *nine inches* thick, provided the height of that storey does not exceed *eleven feet*.

Provided that notwithstanding anything contained in the foregoing rules (a) to (j) inclusive—

- (i.) Every external and party wall of any storey which measured from the level of the floor of that storey to the level of the floor of the storey next above it, if any, exceeds *eleven feet* in height shall be not less than *thirteen and a half inches* in thickness; and
- (ii.) If any storey exceeds in height *fourteen* times the thickness herein-before prescribed for its walls the thickness of each external and party wall throughout that storey shall be increased to *one-fourteenth* part of the height of the storey, and the thickness of each external wall and of each party wall below that storey shall be proportionately increased (subject to the provision herein-after contained respecting distribution in piers).

Provided further that where in accordance with the requirements of this byelaw an increase of thickness is required in the case of a wall exceeding *sixty feet* in height and *forty-five feet* in length, or in the case of a storey exceeding in height *fourteen* times the thickness prescribed for its walls, or in the case of a wall below that storey, the increased thickness may be confined to piers properly distributed, of which the collective widths amount to *one-fourth* part of the length of the wall. The width of the piers may nevertheless be reduced if the projection is proportionately increased, the horizontal sectional area not being diminished; but the projection of any such pier shall in no case exceed *one-third* of its width.

“Public buildings” and “Buildings of the warehouse class” are defined in byelaw 1, *ante*, p. 56. As to new buildings, see p. 50.

Thickness of walls of “warehouse” and “public” buildings.—The walls of buildings such as are termed in the model byelaws “public

buildings" and "buildings of the warehouse class," must obviously be of greater strength than those of "domestic buildings" as defined by byelaw 1. The thicknesses prescribed by clause 23 should not be reduced. They are to be regarded as minimum thicknesses adapted for buildings constructed for ordinary "warehouse" or public purposes—not for buildings for the storage of machinery, or of movable loads of exceptional weight. It will be noticed that the form of the clause is different to that of No. 22, inasmuch as it prescribes the thickness of walls at their "base" and for a certain distance downwards from the top, and regulates the diminution in thickness in the intermediate parts of the wall by means of the provision in sub-clause (*j*). (See Plates VI. and VII., Figs. 11 and 12, Appendix.) The setts-off may be on one or both sides of the wall, but theoretically a better balance is obtained by setting-off on both sides. Similar thicknesses to those prescribed by the model clause have been adopted for buildings in the metropolis, in the London Building Act, 1894. The only alteration of importance in this clause as compared with the one contained in the previous series consists in the substitution of "eleven feet" for "ten feet" in what is now part (*i.*) of the first proviso.

Thickness of party walls.—See note on clause 22, p. 92.

Provision respecting distribution in piers.—See the second proviso to the model clause.

24. Every person who shall erect a new building shall construct in accordance with the following rules, every cross wall which, in pursuance of the byelaw in that behalf, may, as a return wall, be deemed a means of determining the length of any external wall or party wall of such building; and in every case the thickness prescribed shall be the minimum thickness of which any such wall may be constructed; and the several rules shall apply only to walls built of good bricks, not less than *nine inches* long, or of suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal:—

Thickness of
cross walls.

The thickness of every such cross wall shall be at least *two-thirds* of the thickness prescribed by the byelaw in that behalf for an external wall or party wall of the same height and length and belonging to the same class of building as that to which such cross wall belongs, but shall in no case be less than *nine inches*:—

But if such cross wall supports a superincumbent external wall the whole of such cross wall shall be of the thickness prescribed by the byelaw in that behalf for an external wall or a party wall of the same height and length and belonging to the same class of building as that to which such cross wall belongs.

Cross walls.—As elsewhere already indicated (p. 88), the model byelaws affecting the structure of cross walls are limited to such walls as, under clause 21 (*iii.*), may be deemed to divide other walls into distinct lengths

because of the lateral support afforded by them to such other walls. There is nothing in the clause to prevent the construction of lath-and-plaster or boarded partitions, or other like divisions within a building.

Thickness of
walls not
built of
bricks, etc.

25. Every person who shall erect a new building and shall construct any external wall, party wall, or cross wall of such building of any material other than good bricks or suitable stone or other blocks of hard and incombustible substance, the beds or courses being horizontal, shall comply with the following rules with respect to the thickness of such wall :—

- (a) Where a wall is built of stone or of clunches of bricks, or other burnt or vitrified material, the beds or courses not being horizontal, or of flintwork, the thickness of such wall shall be *one-third* greater than that prescribed by the byelaw in that behalf for a wall built of bricks, but in other respects of the same description, height, and length, and belonging to the same class of building :
- (b) A wall built of brickwork and flintwork, in which the proportion of brickwork is equal to at least *one-fifth* of the entire content of the wall and is properly distributed in piers and horizontal courses, or of half-timber work, or of other suitable material not specifically mentioned in this byelaw, shall be deemed to be of sufficient thickness if constructed of the thickness prescribed by the byelaw in that behalf for a wall built of bricks, but in other respects of the same description, height, and length, and belonging to the same class of building.

Provided always that this byelaw shall not be deemed to apply to any part of an external wall of a new building which may, in accordance with the provisions of the byelaw in that behalf be constructed of timber-framing covered with tiles.

Walls not of ordinary construction.—This clause regulates the thickness of walls built otherwise than of brick or stone, or other blocks of hard and incombustible substance in horizontal courses. Its amended form is necessary in connection with the amendments made in the clause now numbered 14 (p. 77).

Precautions
where open-
ings exceed
one-half the
vertical face
of storeys.

26. Every person who shall erect a new building and shall leave in any storey or storeys of such building an extent of opening in any external wall which shall be greater than *one-half* of the whole extent of the vertical face or elevation of the wall or walls of the storey or storeys, in which the opening is left, shall construct—

- (a) Sufficient piers of brickwork or other sufficient supports

of incombustible material so disposed as to carry the superstructure; and

- (b) A sufficient pier or piers or other sufficient supports of that description at or within *three feet* of the corner or angle of the building.

Openings in external walls.—Where, in any storey, the openings in an external wall of a building are of more than ordinary size, special provision must be made for the support of the superincumbent wall. Such a provision is contained in clause 26 of this series. The clause is more particularly applicable to buildings constructed with bay windows, and shop fronts. Corner buildings must be constructed in accordance with paragraph (b). (See Diagram, Plate VIII., Fig. 13, Appendix.)

27. Every person who shall erect a new public building, a new building of the warehouse class, or a new domestic building which may be intended to be used wholly or partly as a shop or as a place of habitual employment for any person in any manufacture, trade, or business, or which may be intended to be used exclusively as a dwelling-house and may exceed *thirty feet* in height, shall cause such part of any external wall of such building as is within a distance of *fifteen feet* from any other building to be carried up so as to form a parapet *one foot* at least above the highest part of any roof or gutter which adjoins such part of such external wall, and he shall cause the thickness of the parapet so carried up to be at least *nine inches* throughout.

Parapets to be formed in external walls of certain buildings.

Parapets to external walls.—(See Diagram, Plate VIII., Fig. 14, Appendix.) The carrying up of external walls so as to form parapets minimises the danger of the spread of fire from roof to roof, where the space intervening between buildings not actually adjoining is less than *fifteen feet* in width. In such a case, the flames from the roof of a burning building may be carried by the wind across the intervening space, cracking the slates or other covering of the roof of the adjacent building, and exposing the roof timbers, when these readily become ignited. It must be admitted, however, that the carrying up of these parapets would often detract from the appearance of buildings, besides somewhat increasing the cost of brickwork, in cases where the comparatively small size of the buildings renders the precaution practically unnecessary. The present clause, in which the carrying up of the parapet is required in the case only of public buildings, warehouse buildings, shops and workshops, and dwelling-houses over thirty feet in height, has therefore been substituted for model clause 25 of the previous series, which applied to every new building. As to the words “place of habitual employment,” etc., see note, p. 65. As to damp-proof courses in parapets, see note, p. 86. It would be usual to omit this clause if, of the two next clauses (28 (A.) and 28 (B.)), the latter only is adopted by the council.

28. (A.)—(1.) Every person who shall erect a new public building, a new building of the warehouse class, or a new domestic building which may be intended to be used wholly or partly as

Party walls of certain buildings to be carried

above roofs,
etc.

a shop or as a place of habitual employment for any person in any manufacture, trade, or business, or which may be intended to be used exclusively as a dwelling-house and may exceed *thirty feet* in height, shall cause every party wall of such building to be carried up *nine inches* at the least in thickness :—

- (a) Above the roof, flat, or gutter of the highest building adjoining thereto to such height as will give in the case of a public building or of a building of the warehouse class, a distance of at least *three feet*, and, in the case of any such domestic building as is herein-before described, a distance of at least *fifteen inches* measured at right angles to the slope of the roof, or above the highest part of any flat or gutter, as the case may be :
- (b) Above any turret, dormer, lantern-light, or other erection of combustible materials fixed on the roof or flat of any building within *four feet* from the party wall, and so as to extend at least *twelve inches* higher and wider on each side than such erection :
- (c) To a height of *twelve inches* at the least above such part of any roof as is opposite to and within *four feet* from the party wall.

In every case where the eaves of the roof project beyond the face of the building, he shall cause every party wall of such building to be properly corbelled out, in brickwork, or stonework, to the full extent of such projection, and to be carried up above the projecting eaves, *nine inches* at the least in thickness, to such height as will give, in the case of a public building or of a building of the warehouse class, a distance of at least *three feet*, and, in the case of any such domestic building as is herein-before described, a distance of at least *fifteen inches* measured at right angles to the slope of the roof.

Party walls
of other
buildings to be
carried up to
the slates, etc.

(2.) Every person who shall erect a new domestic building which may be intended to be used exclusively as a dwelling-house and may not exceed *thirty feet* in height, or which may be intended to be used as an office building or other outbuilding appurtenant to a dwelling-house, whether attached thereto or not, shall cause every party wall of such building to be carried up at least as high as the under side of the slates or other covering of the roof of such building ; and if such party wall be carried up only to the under side of such slates or other covering, he shall cause such slates or other covering to be properly and solidly bedded in mortar or cement on the top of the wall.

He shall also cause the roof to be so constructed that no lath, timber, or woodwork of any description shall extend upon or across any part of such wall.

(3.) For the purposes of this byelaw, the height of a building shall be measured upwards from the top of the footings of the walls thereof to the level of half the vertical height of the roof or to the top of the parapet whichever may be the higher.

Height of building, how measured.

28. (B.)* Every person who shall erect a new building shall cause every party wall of such building to be carried up at least as high as the under side of the slates or other covering of the roof of such building; and if such party wall be carried up only to the under side of such slates or other covering, he shall cause such slates or other covering to be properly and solidly bedded in mortar or cement on the top of the wall.

Party walls to be carried up to slates, etc.

He shall also cause the roof to be so constructed that no lath, timber, or woodwork of any description shall extend upon or across any part of such wall.

Definitions.—A “dormer” (see clause 28 (A.)) is an excrescence on the sloping roof of a building for the purpose of admitting light through a vertical window frame. It is otherwise described as a window placed on the inclined plane of the roof of a house, the frame being vertical upon the rafters. A “lantern-light” is defined as a drum-shaped erection, square, circular, elliptical, or polygonal in plan, upon the top of a dome, or of an apartment, to give light. (See Gwilt’s “Encyclopædia of Architecture.”)

Party walls to be carried up through or up to roofs.—The object of clauses 28 (A.) and 28 (B.), which are alternative clauses, is similar to that of the previous clause, viz., the prevention of the spread of fire from roof to roof of buildings. The adoption of the first of these clauses must be strongly urged upon all local authorities making byelaws as to new buildings, whose powers are sufficient for the purpose. (See note, p. 99, and first note on p. 102.) Any addition to the cost of each building which the enforcement of its provisions may entail will be very small in proportion to the extra security obtained. The original clause of the Local Government Board was so drawn as to make the carrying up of the party walls above the roofs obligatory in the case of every new building. The present clause 28 (A.), however, requires this only in the case of—

(a) Public buildings;†

(b) Buildings of the warehouse class;† and

(c) Domestic buildings,†—

(i.) Intended to be used wholly or partly as shops, or as places of habitual employment for any person in any manufacture, trade, or business; or

(ii.) Intended to be used exclusively as dwelling-houses,† and exceeding thirty feet in height.

(See Diagram, Plate VIII., Fig. 15.)

* Where the preceding clause is adopted, this clause, 28 (B.), should be omitted.

† See the definitions of these terms in clause 1, *ante*, p. 56.

It is recognised that in the case of the smaller class of buildings intended for use exclusively as dwelling-houses, the danger sought to be guarded against is less than in the case of larger houses, or of public buildings, shops and warehouses; and accordingly, where clause 28 (A.) is adopted, small dwelling-houses without shops are exempted by operation of sub-clause (2) from the requirement that the party walls shall be carried up above the roofs. For the same reason all "office" and other outbuildings appurtenant to dwelling-houses are likewise exempted. But in all these cases the clause requires, as a minimum of precaution, that the party walls shall be carried up to the under side of the covering of the roof, the latter being properly and solidly bedded in mortar or cement on the top of the wall, and no woodwork being allowed to extend upon or across any part of the wall. Clause 28 (B.) leaves all buildings unregulated in the matter of carrying party walls above roofs, and merely secures the carrying up of such walls to the under side of the slates or other covering of the roof.

A fully licensed public-house is not a building "used in part for purposes of trade or manufacture, and in part as a dwelling-house" within the meaning of the London Building Act, 1894, s. 74 (2). (*Curritt v. Godson* (1899), 2 Q. B. 193; 80 L. T. (N.S.) 771; 68 L. J. Q. B. 779; 63 J. P. 644).

Places where s. 109 of the 10 & 11 Vict. c. 34, is in force.—In cases where the provisions of s. 109 of the Towns Improvement Clauses Act, 1847, are in force by reason of the incorporation of the section with any local Act, or where otherwise the height to which party walls are to be carried up is the subject of statutory regulations, both clause 28 (A.) and clause 28 (B.) of the model series must be omitted.

Walls to be
coped.

29. Every person who shall erect a new building shall cause every wall of such building, when carried up above any roof, flat, or gutter, so as to form a parapet, to be properly coped or otherwise protected, in order to prevent water from running down the sides of such parapet, or soaking into any wall.

Coping of walls.—This provision is necessary in order to prevent rain-water from trickling down the sides of and soaking into a wall carried up above the roof, etc., so as to form a parapet. It does not itself require any wall to be so carried up. (See clauses 27, 28 (A.) and 28 (B.), and, as to damp-proof courses in parapets, the note on p. 86.)

Openings in
party walls
prohibited.

30. A person who shall erect a new building shall not construct any party wall of such building so that any opening shall be made or left in such wall.

Openings in party walls.—The object of this clause is, of course, the prevention of the spread of fire. Obviously the protection which a properly constructed party wall affords in this respect would be greatly reduced, if not altogether neutralised, if openings in the wall were permitted. The clause is not limited to the prohibition, in the case of new buildings, of means of access from one building to another through the party wall. The expression "party wall," as defined by clause 1, would include a wall which is used for separation of adjoining buildings in part only of its length or height. A window opening in the exposed portion of such a wall might be a source of great danger to the

building were a fire to break out in the building adjoining. The byelaw does not prevent openings being made in party walls after the buildings are completed. Under s. 23 (4) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), however, a byelaw may be made by any local authority in whose district that enactment is in force* “to prevent buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws.” And model clauses for adoption by local authorities under this enactment are suggested by the Editors, *post*, pp. 219 to 222. There is no authority under the Public Health Acts for a byelaw purporting to regulate the process of uniting buildings by making openings in party walls. In the metropolis the matter is regulated by specific enactment in the London Building Act, 1894, s. 77.

31. A person who shall erect a new building shall not make any recess in any external wall or party wall of such building :— Recesses in walls.

- (a) Unless the back of such recess be at the least *nine inches* thick ;
- (b) Unless a sufficient arch be turned or a lintel of incombustible material placed in every storey over every such recess ;
- (c) Unless in each storey the aggregate extent of recesses having backs of less thickness than the thickness prescribed by any byelaw in that behalf for the wall in which such recesses are made do not exceed *one-half* of the extent of the vertical superficies of such wall ;
- (d) Unless the side of any such recess nearest to the inner face of any return external wall is distant at the least *thirteen and a half inches* therefrom.

Recesses.—The “extent” of a recess for the purposes of this byelaw is to be ascertained with reference to the area of its vertical face or elevation. Whether the recesses are formed for ornament or to secure more floor room, the matters dealt with in this byelaw must be rigidly controlled if the stability of the walls is not to be affected, and the precise rules prescribed by the clauses governing the thickness of walls rendered nugatory. (See Diagram, Plate IX., Figs. 16 and 17, Appendix.) Similar rules to those here prescribed are embodied in s. 54 of the London Building Act, 1894. In that section the thickness of the back of a recess in a party wall is required to be not less than *thirteen inches* ; but where such a recess does not exceed five inches in depth, the Act permits corbelling in brick or stone to be substituted for arching. There is no reference to a lintel as an alternative to arching. Subject to this, an arch of at least *two rings of brickwork* of the full depth of the recess is required by the section to be turned over every recess on every storey.

* See ss. 3 and 5 of the Act.

Chases in
walls.

32. A person who shall erect a new building shall not make in any wall of such building any chase which shall be wider than *fourteen inches* or more than *four and a half inches* deep from the face of such wall, or shall leave less than *nine inches* in thickness at the back or opposite side thereof, or which shall be within *thirteen and a half inches* from any other chase, or within *seven feet* from any other chase on the same side of such wall, or within *thirteen and a half inches* from any return wall.

Chases.—A chase may be described as a vertical indent in a wall, formed either for the purpose of joining thereto another wall, or for so fixing pipes, etc., that they shall not extend beyond the face of the wall. (See Diagram, Plate IX., Fig. 17, Appendix.) Like the previous clause, this is a provision “for securing stability.” (See, for a similar provision affecting the metropolis, s. 60 of the London Building Act, 1894.)

Bond timbers,
etc., in party
walls pro-
hibited.

33. A person who shall erect a new building shall not place in any party wall of such building any bond timber, or any wood plate.

Timbers in party walls.—Section 56 (3) of the London Building Act, 1894, contains a similar prohibition as regards the building into a party wall of any “bond timber or wood plate.” “Bond timbers” are timbers inserted during the construction of walls, with a view to tying the work together longitudinally during settlement. They are now little used, as they have been a frequent cause of the collapse of the walls of burning buildings through the destruction of the timber by the fire. A “wood plate” may be placed horizontally upon or against a wall for receiving the ends of rafters, girders, or joists. (See also clause 34 and note thereon.)

Bressummers,
beams, and
joists in party
walls.

34. A person who shall erect a new building shall not place the end of any bressummer, beam, or joist in any party wall of such building, unless the end of such bressummer, beam, or joist be at least *four and a half inches* distant from the centre line of such party wall.

Provided always that in the case of a party wall not exceeding *nine inches* in thickness such person may place the end of any such bressummer, beam, or joist so that it may extend to the centre line of such party wall if the end of such bressummer, beam or joist be encased in not less than *four and a half inches* of solid brickwork or other solid and incombustible material.

Bressummers, beams, and joists.—The amended model byclaws (see *ante*, p. 56) define a “bressummer” as “a wooden beam or a metal girder which carries a wall.” “Beams” also may be either of wood or metal. They either support a weight or are employed to counteract two opposite and equal forces, either drawing or compressing them, in the direction of their length. “Joists” are baulks of timber laid horizontally on edge at a specified distance

apart, for the purpose of forming a framework to which the boards of a floor or the laths of a ceiling may be attached. (See Gwilt's "Encyclopædia of Architecture," and for model byelaws, pp. 208 *et seq.*)

Bressummers, etc., in party walls.—A former clause in the model series prohibited the placing the end of a bressummer beam, or joist, in any case within *four and a half inches* of the centre line of a party wall. A concession is now made in the case of party walls the whole thickness of which is only nine inches, the effect being to permit a bressummer, beam, or joist (*a*) to be inserted four and a half inches in the wall, provided that any bressummer beam or joist (*b*) that may be inserted on the other side of the wall is so placed as to ensure a "easing" of solid brickwork, etc., four and a half inches at least in thickness, on every side both of (*a*) and of (*b*) as so inserted. This clause appears to have been based on s. 15 of the Metropolitan Building Act, 1855 (18 & 19 Vict. c. cxxii.), since repealed by s. 215 of the London Building Act, 1894. The re-enactment in s. 56 of the latter Act applies only to wooden bressummers, beams, and joists, and says nothing about keeping the ends of metal bressummers the same distance from the centre line of a party wall as a wooden bressummer. The clause above, however, will apply to any bressummer, whether of wood or metal. It will entirely prohibit the end of any bressummer, beam, or joist being placed in any party wall within four and a half inches from the centre line of the wall if the wall is more than nine inches in thickness. Where a bressummer cannot under the byelaw be given a sufficient bearing on a party wall, it must be supported as required by clause 35. Joists may be laid parallel to the party walls, if necessary, and other timbers may be supported upon corbels or iron brackets. (See Diagram, Plate IX., Fig. 18, Appendix.)

35. Every person who shall erect a new building shall cause every bressummer to be borne by a sufficient template of stone, iron, terra-cotta, or vitrified stoneware of the full breadth of the bressummer, and to have a bearing in the direction of its length of *four inches* at least at each end.

Templates for
bressummers
and bearing
required.

He shall also, if necessary, cause such bressummer to have such storey posts, iron columns, stanchions, or piers of brick or stone on a solid foundation under the same as may be sufficient to carry the superstructure.

Use of templates.—The use of a "template" (or "templet") is to distribute the weight of the bressummer. It may, under this byelaw, be of stone, iron, terra-cotta, or vitrified stoneware, but not of wood. It must be of the full breadth of the bressummer, and it may be questioned whether it should not be slightly wider than this.

Bearing of bressummers.—The object of the second paragraph of this clause is to secure adequate support for the bressummer where necessary, independently of any bearing on a wall. "Storey posts" are upright supports which should either have a solid wall below, or stand upon proper bedstones with their ends let into sockets. (See Gwilt's "Encyclopædia of Architecture.") "Columns" and "stanchions" are other forms of upright supports which must also rest upon proper foundations. Requirements similar to those of the present clause are in force in the metropolis. (See s. 56 of the London Building Act, 1894.)

Foundations,
etc., of
chimneys.

36. Every person who shall erect a new building shall, except in such case as is herein-after provided, cause every chimney of such building to be built on solid foundations and with footings similar to the footings of the wall against which such chimney is built, and to be properly bonded into such wall :

Provided, nevertheless, that such person may cause any chimney of such building to be built on a metal girder, or on sufficient corbels of brick, stone, or other hard and incombustible materials, if the work so corbelled out does not project from the wall more than the thickness of the wall measured immediately below the corbel.

Foundations of chimneys.—It is unnecessary to enlarge upon the necessity, in the interests of stability, of securing proper foundations for chimneys. The requirements of this byelaw are similar to those in force in the metropolis. (See s. 64 (1) of the London Building Act, 1894.)

Application of the model byelaws as to chimneys.—The terms of the model clauses would seem to make them applicable to *every* chimney of a new building. It seems quite clear, however, that they are not intended to apply to chimneys and flues constructed merely of piping not contained in a wall. It is perhaps to be regretted that the byelaws are not drawn in such a form as to expressly exclude pipe chimneys of this kind ; but it is not probable that the byelaws would be held to be invalid, as regards chimneys to which they are applicable, because of this defect in form.

Flues to be
rendered or
pargeted.

37. Every person who shall erect a new building shall cause the inside of every flue of such building to be properly rendered or pargeted as such flue is carried up, unless the whole flue shall be lined with fire-proof piping of stoneware at least *one inch* thick, and unless the spandril angles shall be filled in solid with brickwork or other incombustible material.

Such person shall also cause the back or outside of such flue, which shall not be constructed so as to form part of the outer face of an external wall, to be properly rendered in every case where the brickwork of which such back or outside may be constructed is less than *nine inches* thick.

Flues.—The cavity or hollow from the fireplace contracts as it ascends to the top of the room. This part of the chimney is termed the “gathering,” and the “flue” is the tube or cavity from the point where the gathering ceases up to the top of the chimney. Clause 37 of the model byelaws aims at the prevention as far as possible of the lodgment of soot on the inner surface of the flue, and of the penetration of fire between the joints of the brickwork. With this view it requires the inside of the flue to be coated with plaster or lined with fireproof piping. Alternatively it would seem proper to line the flue with fireclay ; but (query) whether the clause admits this alternative. The gathering as well as the flue should be rendered or pargeted. The “spandril angles” are the spaces formed between the lining of the flue and the angles

of the brickwork or masonry enclosing the flue. The "back" of the flue is that side which is opposite to the "breast," the breast being the part of the wall containing the chimney which faces the room. The second paragraph of the clause, it will be seen, applies only to flues in party or cross walls where the back is less than nine inches in thickness. The thickness of the back is regulated by clause 42.

38. Every person who shall erect a new building shall cause every flue in such building which may be intended for use in connection with any furnace, cockle, steam boiler, or close-fire, constructed for any purpose of trade, business, or manufacture, or which may be intended for use in connection with any cooking range or cooking apparatus of such building when occupied as a hotel, tavern, or eating house, to be surrounded with brickwork or other solid and incombustible material at least *nine inches* thick for a distance of *ten feet* at the least in height from the floor on which such furnace, cockle, steam boiler, close-fire, cooking-range, or cooking apparatus may be constructed or placed. Furnace, etc.,
flues.

Furnace, etc., flues.—A similar provision to the above is contained in s. 64 (4) of the London Building Act, 1894, in which, however, the thickness of eight and a half inches (corresponding to nine inches in the model byelaws) is required to be carried "to the level of the ceiling of the room next above" the furnace, etc. A "cockle" is a form of stove. In some hop-growing districts, the words "other than the cockle of any oast-house or hop-kiln, or with any," have been inserted after "cockle" in line 3.

39. Every person who shall erect a new building shall cause a sufficient arch of brick or stone or a sufficient stone lintel, or a sufficient bar of wrought iron to be built over the opening of every chimney of such building to support the breast of such chimney; and if the breast projects more than *four and a half inches* from the face of the wall, and the jamb on either side is of less width than *thirteen and a half inches*, he shall cause the abutments to be tied in by a bar or bars of wrought iron of sufficient strength, *eighteen inches* longer than the opening, turned up and down at the ends, and built into the jambs on each side. Support of
chimney
breasts.

Support of chimney breasts.—This clause, the terms of which are similar to, but rather less stringent than those of s. 64 (3) of the London Building Act, 1894, provides for the support of a chimney breast by means of an arch of brick or stone, a stone lintel, or a strong bar of iron over the opening. The term "jamb" is applied to the vertical portion of masonry or brickwork on each side of the chimney opening, on which the arch or bar discharging the weight of the breast will have an abutment. Where otherwise the jambs

would be insufficient to sustain the thrust to which they are to be subjected, they must be tied in as mentioned in the latter part of the byelaw. (See Plate X., Fig. 19, Appendix.)

Jambs of
chimney
openings.

40. Every person who shall erect a new building shall cause the jambs of every chimney of such building to be at least *nine inches* wide on each side of the opening of such chimney.

Width of jambs of chimney openings.—Practically the same provision is embodied in s. 64 (8) of the London Building Act, 1894. It is necessary alike “for seeming stability” and for “the prevention of fires.” (See Plate X., Fig. 21, Appendix.)

Thickness of
chimney
breasts, etc.

41. Every person who shall erect a new building shall cause the breast of every chimney of such building and the brickwork or stonework surrounding every smoke flue and every copper flue of such building to be at least *four and a half inches* in thickness.

Thickness of chimney breasts, etc.—This clause should be read with clause No. 37. Section 6 of the Chimney Sweepers and Chimneys Regulation Act, 1840 (3 & 4 Viet. c. 85), prescribes the following regulations as to the construction of chimneys and flues:—

“All withs and partitions between any chimney or flue which at any time shall be built or rebuilt, shall be of brick or stone, and at least equal to half a brick in thickness; and every breast-back and with or partition of any chimney or flue hereafter to be built or rebuilt shall be built of sound materials, and the joints of the work well filled in with good mortar or cement, and rendered or stuccoed within; and also every chimney or flue hereafter to be built or rebuilt in any wall, or of greater length than four feet out of the wall, not being a circular chimney or flue twelve inches in diameter, shall be in every section of the same not less than fourteen inches by nine inches; and no chimney or flue shall be constructed with any angle therein which shall be less obtuse than an angle of one hundred and twenty degrees, except as hereinafter excepted; and every salient or projecting angle in any chimney or flue shall be rounded off four inches at the least; upon pain of forfeiture, by every master builder or other master workman who shall make or cause to be made such chimney or flue, of any sum of not less than ten pounds nor exceeding fifty pounds: Provided nevertheless, that notwithstanding this Act chimneys or flues may be built at angles with each other of ninety degrees and more, such chimneys or flues having therein proper doors or openings not less than six inches square.”

Thickness of
chimney
backs.

42. Every person who shall erect a new building shall cause the back of any chimney opening in a party wall and at the back of the flue connected therewith in any room which may be constructed for occupation as a kitchen to be at least *nine inches* thick to the height of at least *nine feet* above the hearth.

Such person shall cause the back of every other chimney opening in such building, from the hearth up to the height of

twelve inches above such opening, to be at least *four and a half inches* thick in the case of an external wall, and *nine inches* thick in the case of any other wall.

Thickness of chimney backs.—The effect of this clause is to require the backs of chimneys to be at least nine inches in thickness, except where they are constructed in external walls, when they may be only four and a half inches in thickness. In the case of a kitchen chimney in a party wall, the prescribed thickness is, in order to obviate danger from fire to the adjoining building, to be carried up nine feet above the hearth (*i.e.*, continued to that height at the back of the flue). In the other cases specified, where a thickness of nine inches is required, it will be sufficient if it be carried up not less than one foot above the opening. (See Diagrams, Plate X., Figs. 20 and 21, Appendix.)

43. Every person who shall erect a new building shall cause the upper side of every flue of such building, when the course of such flue makes with the horizon an angle of less than *forty-five* degrees, to be at least *nine inches* in thickness. Thickness of flues constructed at an angle.

Thickness of flues.—A similar provision is contained in s. 64 (11) of the London Building Act, 1894. Section 6 of the Chimney Sweepers and Chimneys Regulation Act, 1840 (3 & 4 Viet. c. 85), enacts that no flue shall be constructed with any angle therein less obtuse than one hundred and twenty degrees, except in cases where proper doors or openings at least six inches square are provided, when the angles may be ninety degrees and more. Every salient or projecting angle in any flue is, by the same enactment, to be rounded off four inches at least. (See *ante*, p. 108.)

44. Every person who shall erect a new building shall cause every chimney shaft or smoke flue of such building to be carried up in brickwork or stonework all round at least *four and a half inches* thick to a height of not less than *three feet* above the roof, flat, or gutter adjoining thereto, measured at the highest point in the line of junction with such roof, flat, or gutter. Chimney shafts, etc., to be carried above the roof.

Minimum height of chimney shafts.—A “chimney shaft” is that part of a chimney which rises above the roof. A number of shafts may be collected into one mass, which is then termed a “stack.” But whether standing singly or as part of a stack, it is important, with a view to the prevention of fires, and also to secure immunity from down draught, that the shaft shall be carried up a sufficient height above the roof. This byelaw requires the *brickwork* or *masonry* of the shaft to be carried up at least three feet higher than the roof, measuring on the upper side of the shaft. A similar provision is in force in London. (See s. 64 (12) of the London Building Act, 1894.)

Damp-proof course in chimney stacks.—See note. p. 86.

45. A person who shall erect a new building shall not cause the brickwork or stonework of any chimney shaft of such building, other than a chimney shaft of the furnace of any steam engine, brewery, distillery, or manufactory, to be built Maximum height of chimney shafts.

higher above the roof, flat, or gutter adjoining such chimney shaft, measured from the highest point in the line of junction with such roof, flat, or gutter, than a height equal to *six* times the least width of such chimney shaft at the level of such highest point, unless such chimney shaft shall be built with and bonded to another chimney shaft not in the same line with such first-mentioned chimney shaft, or shall be otherwise made secure.

Maximum height of chimney shafts.—The provisions of clause 45 are necessary “for securing stability.” (See Diagram, Plate X., Fig. 22, Appendix.)

Chimney shafts of factories, etc.—If the local authority are desirous of regulating the construction of large chimney shafts, such as those of breweries, manufactories, etc., the provisions of s. 65 of the London Building Act, 1894, might be considered by them. Certain requirements of the section referred to are in the Act made subject to the permission of the county council, or the discretion of the district surveyor; but except in this respect the provisions of the section might form a basis for a byelaw to be submitted to the Local Government Board for their preliminary approval.

Sectional area of chimneys and flues.—Section 6 of the Chimney Sweepers and Chimneys Regulation Act, 1840 (3 & 4 Vict. c. 85), provides that every chimney or flue built or rebuilt in any wall after the passing of the Act, not being a circular chimney or flue *twelve inches* in diameter, shall be of a sectional area not less than *fourteen inches* by *nine inches*. (See *ante*, p. 108.)

Metal
fastenings
in chimneys.

46. A person who shall erect a new building shall not place any iron holdfast or other metal fastening nearer than *two inches* to the inside of any flue or chimney opening in such building.

Metal fastenings.—This clause corresponds to s. 64 (22) of the London Building Act, 1894. It is a byelaw “for the prevention of fires.”

Woodwork
in chimneys.

47. A person who shall erect a new building shall not place any timber or woodwork :—

(a) In any wall or chimney breast of such building nearer than *nine inches* to the inside of any flue or chimney opening :

(b) Under any chimney opening of such building within *ten inches* from the upper surface of the hearth thereof.

A person who shall erect a new building shall not drive any wooden plug into any wall or chimney breast of such building

nearer than *six inches* to the inside of any flue or chimney opening.

Woodwork in chimneys.—For similar provisions with a view to the prevention of fires, see s. 64 (21) (22) of the London Building Act, 1894. The clause is one to which great importance should be attached. The provision in sub-clause (b) refers to the “back-hearth,” which may be part of the wall or chimney-breast. The clause formerly required a space of at least *fifteen inches* between the timber and the upper surface of the hearth.

Hearths.—The structure of hearths can only be regulated, where no local Act is in force, if, by adoption or otherwise, the district council have obtained power to make byelaws on the subject under s. 23 (1) of the Public Health Acts Amendment Act, 1890. (See ss. 3 and 5 of the Act.) A clause as to hearths may be inserted (where the district council have power to make the byelaw) after clause 51. For a form of byelaw suggested by the Editors of the present work, see p. 217.

48. Every person who shall erect a new building shall cause the face of the brickwork or stonework about any flue or chimney opening of such building, where such face is at a distance of less than *two inches* from any timber or woodwork, and where the substance of such brickwork or stonework is less than *nine inches* thick, to be properly rendered.

Brickwork, etc. about flues and chimney openings to be rendered.

Brickwork about flues and chimneys.—This byelaw is intended to prevent the danger of fire which might arise through the perishing of the mortar filling the interstices of the brickwork, where woodwork is in close proximity to the face of the brickwork.

49. A person who shall erect a new building shall not construct any chimney or flue of such building so as to make or leave in such chimney or flue any opening for the insertion of any ventilating valve, or for any other purpose, unless such opening be at least *nine inches* distant from any timber or other combustible substance.

Openings in chimneys.

Openings in chimneys.—In London, openings must not be made in chimneys nearer than *twelve inches* to any timber or combustible substance. (See s. 64 (20) of the London Building Act, 1894.)

50. A person who shall erect a new building shall not fix in such building any pipe for the purpose of conveying smoke or other products of combustion, unless such pipe be so fixed at the distance of *nine inches* at the least from any combustible substance.

Pipes for conveying smoke, etc.

Smoke pipes.—A similar enactment with regard to the metropolis will be found in s. 66 (3) of the London Building Act, 1894.

Chimney pots.—The model byelaws contain no provision as to the fixing of chimney pots. Such a byelaw would probably be *ultrâ vires*, as the chimney pot (if any) forms no part of the structure of the chimney.

Covering of
roof, etc.

51. Every person who shall erect a new building shall cause the flat and roof of such building, and every turret, dormer, lantern-light, skylight, or other erection placed on the flat or roof of such building to be externally covered with slates, tiles, metal, or other incombustible materials, except as regards any door, door frame, window or window frame of any such turret, dormer, lantern-light, skylight, or other erection.

Structure of roofs.—The provisions of this byelaw, which are substantially reproduced in s. 61 (1) of the London Building Act, 1894, are extremely important “for the prevention of fires,” and in a minor degree “for purposes of health.” One effect of the clause is of course to prevent the construction of thatched roofs, in connection with new buildings, wherever the byelaw is in force. The disadvantages of such a mode of construction, on sanitary and other grounds, besides that of the danger of fire, are now sufficiently recognised to place the reasonableness of the byelaw beyond question.

Places where s. 109 of the 10 & 11 Vict. c. 34 is in force.—Where s. 109 of the Towns Improvement Clauses Act, 1847, is in force, the effect of the provisions contained therein respecting roofs will require consideration.

Additional byelaws.—It seems desirable, in a series of byelaws regulating the structure of roofs, to prescribe the scantlings of roof timbers, and other matters not dealt with in the model clauses of the Local Government Board. Attention may therefore be called to the clauses on this subject, which are suggested by the Editors of the present work, on pp. 206 to 210, *post*, and which, if the district council thought well, might be inserted at this point in the present series.

Byelaws as to the structure of floors, hearths, and staircases, and the height of rooms.—Where the local authority have power under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws as to the structure of floors, hearths, and staircases, and the height of rooms intended for human habitation, such byelaws also may be inserted, under an appropriate heading, between clauses 51 and 52 of this series. For forms of byelaws see pp. 210 to 218, *post*.

With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

Open space
in front of
domestic
buildings.

52. Every person who shall erect a new domestic building shall provide in front of such building an open space, which, measured to the boundary of any lands or premises immediately opposite, or to the opposite side of any street which may not be

less than *twenty-four feet* in width at the point where such building may front thereon, shall, throughout the whole line of frontage of such building, extend to a distance of *twenty-four feet* at the least; such distance being measured in every case at right angles to the external face of any wall of such building which shall front or abut on such open space.

Where a new domestic building may be intended to front on a street laid out before the confirmation of these byelaws, and of a less width than *twenty-four feet*, the person who shall erect such building shall provide in front thereof an open space, which, measured to the opposite side of such street throughout the whole line of frontage of such building, shall extend to a distance equal at least to the width of such street, together with one-half of the difference between such width and *twenty-four feet*.

Any open space provided in pursuance of this byelaw, shall be free from any erection thereon above the level of the ground, except any portico, porch, step, or other like projection from such building, or any gate, fence, or wall not exceeding *seven feet* in height.

A person who shall make any alteration in or addition to any building or who shall erect any new building shall not, by such alteration, addition, or erection diminish the extent of open space provided in pursuance of this byelaw, in connection with a building, or in any other respect fail to comply with any provision of this byelaw.

Open space
not to be
diminished.

Open space about buildings.—The sufficiency of the space about buildings affects the amenity of life in many ways. In these byelaws it can only be dealt with directly as affecting the “free circulation of air.” Incidentally, however, the model clauses dealing with the matter will be found to have relation to the width of streets, and the provision of sanitary accommodation, as well as the ventilation of buildings, with which latter subject that of open space is naturally associated in s. 157 of the Public Health Act, 1875. One all-important point is that there should be a sufficient extent of open space both in front and in rear of every building, so as to secure what is known as “through ventilation.” Clause 52 of the model series deals with space in front, and clause 53 with space in rear, of “domestic buildings” as defined in clause 1, and are thus complementary the one to the other.

Where a byelaw of a local authority provided that wherever any open space had been left belonging to any building, it should never afterwards be built upon without consent of the authority, and without leaving an open space of a specified size and dimensions, it was held by the Court of Queen's Bench that if it applied to old buildings it was invalid (*Tucker v. Rees* (1861), 25 J. P. 789; 7 Jur. (N.S.) 629). As to what is to be understood by “old buildings” here, see note on p. 44.

Where a byelaw provided that a certain amount of air space should be left in the rear of any new building, and a person built, in contravention of that byelaw, without leaving the required space, it was held that the local authority might pull down the offending building, consistently with safety, in any way they pleased, but not in a dangerous way; so that where there had been excess in pulling down the building, they were not liable unless the damage done was appreciable (*Jagger v. Doncaster Rural Sanitary Authority* (1890), 54 J. P. 438).

Under a byelaw which required that in the rear or at the side of every building there should be left an open space of not less than 100 feet, the distance across which, or between such building and the opposite property at the rear or side, shall be twenty-five feet, the distance of twenty-five feet is to be measured at any and every part of the building to the opposite property, and it is not sufficient that in some parts of the building there is a distance of twenty-five feet to the opposite property (*Anderton v. Birkenhead Improvement Commissioners* (1863), 32 L. J. M. C. 137; 9 Jur. (N.S.) 1058; S. C., *Anderton v. Rigby*, 13 C. B. (N.S.) 603).

Where, under a local improvement Act, a byelaw was made which provided that every new building should have in the rear or side an open space of at least 150 square feet, "and wherever any open space had been left when the building was approved, such space shall never afterwards be built upon without the approval of the council," it was held that the byelaw was bad, so far as prohibiting future buildings on the open space in the rear (*Quinby v. Mayor of Liverpool* (1889), 53 J. P. 213). The argument and the decision in this case went on the ground that, under the byelaw, the open space could never have been built upon, whatever its extent might be.

Open space in front of buildings.—Where the model clause 6 is adopted, the narrowest street that can be newly laid out (not reckoning back streets) will be at least twenty-four feet in width. The full amount of space required by clause 52 to be provided in front of a "domestic building" would therefore be secured if the building were placed flush with the boundary of any front street laid out in accordance with the byelaws, or, in other words, if the building were constructed without any forecourt. If there were any portico, porch, step, or other projection from the front of the building, the general line of the building would have to be set back from the street boundary to the extent at least of the width of the projection,* thus making it necessary to provide more than twenty-four feet of open space in front. But in any case where a building was not intended to front to a street, the space in front could be inclusive of any such projection, or of any forecourt, the walls or fences and gates of which did not exceed seven feet in height.

Open space in front of new buildings fronting to existing streets.—The provisions of clause 52 are valuable, apart from other considerations, as securing the widening of old and narrow streets, so far at least as the air space is concerned, as buildings are pulled down and re-erected in such streets. Without, however, some provision such as is now contained in the second paragraph, the effect of the clause in the case of such streets might be to create very irregular lines of frontage where the rebuilding in any street took place piecemeal, and also the clause might press unfairly upon individuals, because while the first person to rebuild in any particular part of the street

* See the definition of "width" in clause 1 as affecting the operation of clause 6.

must cause his building to be set back so as to provide the full extent of open space required, the person owning the opposite property could afterwards proceed to rebuild without setting back at all. The effect of the amended byelaw (see Diagram, Plate XI., Fig. 23, Appendix) is to require a person erecting a new building fronting to any street laid out before the confirmation of the byelaw, and being of a less width than twenty-four feet, to set back by so much only as shall be equal to one-half of the difference between the width of the street and twenty-four feet.

Encroachment on open space.—When the prescribed extent of open space in front of a “domestic building” has once been secured under this byelaw, the fourth paragraph of the clause as amended prevents any building being altered, or any new building erected so as to reduce the extent of space to less than that required by the byelaw. The reference to the erection of a building seems necessary, because the new building erected might be one exempted by clause 2 from the provisions of the byelaws respecting open space. The provisions against encroachment will not apply to the open space in front of any building existing at the date of the confirmation of the byelaws. There are, however, in force within the borough of Bristol, and in one or two places elsewhere, clauses following the lines of this provision, which are so drawn as to apply to the space in front of any domestic building erected before the date when the byelaws came into force, but after the times mentioned in s. 157 of the Public Health Act, 1875. In connection with these clauses, the note on p. 44, referring to the decision in the case of *Tucker v. Rees*, may be considered. Neither the fourth paragraph of the model byelaw, nor the special clauses referred to, prevent an extension of a building to the front on so much of any open space as may have been provided in excess of the prescribed minimum. The special clauses apply to open space in rear of buildings, as well as to open space in front. (See clause 53 of the model series.)

53.—(1.) Every person who shall erect a new domestic building shall provide in the rear of such building an open space exclusively belonging to such building, and of an aggregate extent of not less than *one hundred and fifty square feet*, and free from any erection thereon above the level of the ground, except a watercloset, earthcloset, or privy, and an ashpit, constructed respectively in accordance with the byelaws in that behalf.

Open space
in rear of
domestic
dwellings.

In the case of a domestic building not being a building intended and adapted to be used exclusively as a stable he shall cause such open space to extend throughout the entire width of such building, and he shall cause the distance across such open space from every part of such building to the boundary of any lands or premises immediately in the rear of the site of such building, to be not less in any case than *ten feet*.

If the height of such building be *fifteen feet* he shall cause such distance to be *fifteen feet* at the least.

If the height of such building be *twenty-five feet* he shall cause such distance to be *twenty feet* at the least.

If the height of such building be *thirty-five feet* or exceed *thirty-five feet* he shall cause such distance to be *twenty-five feet* at the least.

Sites of
exceptional
shape.

In any case where by reason of the exceptional shape of the site of such building the minimum distance across the open space required by this byelaw cannot be obtained throughout the entire width of such building, it shall suffice if the mean distance across such open space be not less than the minimum distance so required.

Sites abutting
on two or
more streets.
Re-erection
of domestic
buildings in
old streets.

Provided that—

- (i.) where it is intended to erect a new domestic building on a site abutting on two or more streets ; or
- (ii.) where it is intended to re-erect a domestic building in a street laid out before the confirmation of these byelaws ;

and it is impracticable to comply with the preceding requirements of this byelaw, the said requirements shall be deemed to be satisfied by the provision at the rear or on one side of the site other than the front of such building of an open space exclusively belonging to such building of an extent of at least *one hundred and fifty square feet*, or, in the case of a re-erection of a domestic building, of an extent not less than that of any open space previously provided in connection with such building and in no case less than *one hundred square feet*, which shall be free from any erection thereon except a watercloset or earthcloset and an ashpit, and subject to the following conditions :—

- (a) The open space shall extend throughout at least *ten feet* of the width or depth of such building and the mean distance across such open space measured from the opposite part of such building, to the nearest boundary of any street, lands, or premises immediately adjoining such open space shall be in no case less than *ten feet* ; and
- (b) if the said open space does not abut on a street it shall be connected with a street by means of a passage or other similar opening so arranged as to be capable at all times of affording a free circulation of air between the open space and such street.

Domestic
buildings
appurtenant
to dwelling-
houses.

(2.) (a) This byelaw shall not apply so as to require any open space to be provided in the rear of any domestic building other than a dwelling-house where such building, not being a stable, is appurtenant to a dwelling-house, and is not of a greater height than such dwelling-house, and abuts on the open space provided

in the rear of such dwelling-house, and where the open space so provided is sufficient to comply with the requirements of this byelaw; or where such building being a stable has adjoining and exclusively belonging to it an open space of not less than *one hundred and fifty square feet* in extent.

(b) Where any such building, not being a stable, is of a greater height than the dwelling-house to which it is appurtenant the foregoing exemption shall not apply, unless the open space in the rear of such dwelling-house is sufficient to comply with the requirements of this byelaw in respect of a dwelling-house of the height of the building so appurtenant.

(3.) A person who shall make any alteration in or addition to any building, or who shall erect any new building, shall not, by such alteration, addition, or erection diminish the extent of open space provided in pursuance of this byelaw in connection with a building, or in any other respect fail to comply with any provision of this byelaw.

Open space
not to be
diminished.

(4.) For the purposes of this byelaw the height of a building shall be measured upwards from the level of the ground over which such open space shall extend to the level of half the vertical height of the roof or to the top of the parapet, whichever may be the higher.

Measurement
of height of
building.

Open space in rear of buildings.—The form of the present clause (formerly No. 54) has been altered almost beyond recognition. But the new clause is much shorter, simpler, and more consistent in its various provisions, and being more general in form, will be considerably more elastic in its operation than was its predecessor in the series and the several provisoes frequently tacked on to it in order to minimise the difficulties connected with the clause.

It has already been pointed out that in order to secure proper means of “through ventilation” for “domestic buildings” (see definition, *ante*, p. 56) it is essential that there should be a sufficiency of open space both in front and in rear of each building. Omitting for the moment all exceptional cases, the space provided in rear should extend, as shown in Plate XII., Figs. 24 to 27, Appendix, throughout the entire width of the building at the point of its greatest depth from front to rear.

In the case of sites of “exceptional shape” where it is *impracticable* to secure the prescribed minimum extent of open space throughout the entire width of the building, the model byelaw, in its present form, permits the open space to be provided in such a manner that the *mean* distance across it shall be not less than this minimum. (See Diagram, Plate XIII., Fig. 28, Appendix.) It is very desirable, in view of this provision, that the most careful supervision should be exercised in connection with the laying out of new streets, to secure that the building plots shall not be of insufficient depth, and that in other ways (*e.g.*, by the intersection of streets at inconvenient angles), sites of exceptional shape are not needlessly created. Even where the configuration of the ground, or other unavoidable conditions, produce a site “of exceptional shape,” it should not too easily be conceded that it is

impracticable to give the open space throughout the width of the building. Another point in connection with the open space to be provided in the rear of a domestic building, is that the space should be sufficient to permit of the privy (if any) and an ashpit being placed at a sufficient distance from the building for purposes of health, and the provisions of clauses 74 and 81 on this point must not be overlooked.

“Distance across” open space.—If the circumstances of the district admit, the local authority might be advised to rather increase the distance across, prescribed by sub-clause (1), in the case of a domestic building other than a stable, as by requiring that the minimum distance shall be *fifteen feet*. This would be effected by substituting “fifteen” for “ten” in the second paragraph of the sub-clause, and omitting the succeeding paragraph. Attention may be drawn to the fact that while the height of the main building, ascertained in manner described in sub-clause (4), determines the distance across open space for the purposes of sub-clause (1), the distance should be measured from the rear-most wall, whether of a “back addition” or otherwise. (See Plate XII., Figs. 25 to 27, Appendix.)

Back streets not generally to be included in the open space.—The desirability of encouraging the construction of back streets scarcely requires argument. There is, however, some tendency to consider this an equivalent, in part at least, for open space “exclusively belonging” to buildings. It is necessary, therefore, to state that the Local Government Board are understood to discountenance any such view. A certain amount of open space exclusively belonging to each building is necessary for outdoor waterclosets, ashpits, etc. In addition to this, it should not be overlooked that these streets are comparatively difficult to keep clean. If, in any case, the local authority should feel that the provision of such secondary means of access could not be enforced without some concession in the direction indicated, they should at least prescribe that a space, exclusively belonging to the building, and not less than *ten feet* across, shall be provided in rear of each domestic building other than a stable. *One-half* the width of the back street might then, perhaps, be permitted to be reckoned as part of any additional space which is required where the building exceeds *fifteen feet* in height. Without an express proviso, however, the fence wall separating the backyard from the street would be an obstacle to the inclusion of any part of the width of the street in the open space. (See also *Jones v. Parry, infra*.)

Where a local board made a byelaw that every building to be erected and used as a dwelling shall have an open space exclusively belonging thereto to the extent of at least 500 square feet, free from any erection thereon above the level of the ground, the court ruled that the byelaw was valid, and that a small wooden fence, three feet six inches high, erected around the house was properly held to be an erection within the meaning of the byelaw (*Adams v. Bromley Local Board* (1873), 37 J. P. 662).

The “open space” must “exclusively belong” to the building. A highway, for example, may not be considered as part of the open space. Thus a byelaw of a local board provided:—“Every person erecting a new building to be used as a dwelling-house shall provide in the rear thereof an open space exclusively belonging thereto, to the extent, at least, of one hundred and fifty square feet, free from any erection thereon above the level of the ground. And he shall cause the distance across such open space between every such building and the opposite property at the rear . . . if such building be twenty-five feet in height . . . to be at least twenty feet.” It appeared

that the defendant had erected a new building to be used as a dwelling-house, twenty-five feet in height; that there was in the rear of the building an open space exclusively belonging thereto to the extent of 700 square feet; that the distance across such open space between such building and the boundary of the opposite property at the rear thereof, including the width of the street which divided the building from the opposite property, was fifty-two feet; and that the land exclusively belonging to such building was bounded in the rear by a public street, and that the distance across the open space between the building and the public street was eight feet. It was held by a divisional court that on the true construction of the byelaw, the public street was the "opposite property," and that as the defendant had not caused the distance across the open space between his building and the opposite property to be at least twenty feet, he had committed a breach of the byelaw (*Jones v. Parry* (1888), 52 J. P. 69; 57 L. T. 492).

Buildings other than waterclosets, etc., prohibited on open space.—If any building other than a watercloset, earthcloset, or privy, and an ashpit, (*e.g.*, a washhouse or coal-house), is to be allowed to be erected upon the open space prescribed by this byelaw, the extent of the open space should be increased to, say, *two hundred square feet*, and it would be well to limit the height and cubical content of the additional building.

Provisions as to open space about buildings in London.—The provisions relating to open spaces about buildings, which are in force in London (see Part V. of the London Building Act, 1894), differ considerably in method from those of the model clauses. Section 41 (1) (ii.) of the London Act, however, recognises the principle that there should be in rear of every domestic building an open space exclusively belonging to such building and of an aggregate extent of not less than 150 square feet, and that such open space should extend throughout the entire width of such building and to a depth in every part of at least ten feet from the building.

Proviso for sites abutting on two streets, and for re-erections in old streets.—This proviso reproduces generally, although in simpler form, provisos which the Local Government Board allowed to be added to the byelaw for which the present clause 53 is substituted. In explanation of its requirements, it may be pointed out that it will not be applicable unless it be "inapplicable" to comply with the preceding requirements of the byelaw as now framed. Where it is put in requisition—the open space on the side deemed to be the "front" being secured by byelaw 52—the present clause prescribes the provision of a yard-space on one of the *other* sides of the building; and this yard-space is to be of the minimum width (or depth) of ten feet, to have a mean distance across of at least ten feet, and to be at least 150 square feet (or in certain cases of *re-erection*, at least 100 square feet) in area. The ventilation of this yard-space is important, and is secured, in cases where the yard-space does not abut on a street, by means of the passage or other similar opening referred to in paragraph (b) of the proviso. It will be noticed that the clause does not permit of a privy being placed on the open space, where advantage is taken of this proviso. (See Plate XIII., Figs. 29 and 30.)

Special provisions as to stables, etc.—In the case of a stable, the model clause (see the terms of sub-clauses (1) and (2)) requires the provision of an open space "exclusively belonging to" the building, of a minimum area of 150 square feet; but this space need not be at the *rear* of the stable, if it

adjoins the stable, and if the stable be appurtenant to a dwelling-house. It is, however, required that, unless 150 square feet of open space be provided in rear of the stable, there shall be provided in rear of any dwelling-house to which the stable may be appurtenant, at least such an extent of open space as to satisfy the requirements of the byelaw, on the assumption that the dwelling-house is of a height at least equal to that of the stable. Somewhat similar, but less stringent provisions apply to other domestic buildings, not being dwelling-houses, which are “appurtenant to dwelling-houses.” Here no open space exclusively belonging to the appurtenant building is necessarily required to be provided; but, as in the case of a stable, the open space provided in rear of the dwelling-house to which the building is appurtenant must be such as to satisfy the byelaw on the assumption that the height of the dwelling-house is at least equal to that of the appurtenant building, and the appurtenant building must abut on that open space. (See Plate XIV., Fig. 31.)

Encroachment on open space.—With regard to encroachments upon open space in connection with buildings, see the note on p. 115, in connection with clause 52.

Back-to-back houses.—It follows from what has been stated in connection with model clause 53, that the byelaw is prohibitory of the erection of dwelling-houses back-to-back. Such a mode of construction, indeed, is open to the gravest objection, not only because, with houses so erected, “through” ventilation is impossible, but on other grounds as well. The subject was exhaustively dealt with in a joint Report made to the Local Government Board, in 1888, by Dr. Barry and the late Mr. P. Gordon Smith, F.R.I.B.A.

Open space at the level of the first floor.—The Local Government Board have approved of the addition to the byelaws in some instances of a proviso which permits the open space required in rear of a domestic building, not being a dwelling-house, to be provided in certain cases at the level of the first floor, and which may be useful in encouraging the demolition and re-erection of old shop property in cases where, without some modification, the requirements of the model byelaws would involve too great a sacrifice of building space in existing streets. The proviso is as follows:—

“Provided that, where in any street laid out before the confirmation of these byelaws, a domestic building may be intended to be erected upon a site which, at the time of such confirmation or at a time not exceeding six months previously to the time of such confirmation, shall have been occupied by another domestic building, this byelaw shall not be deemed to prevent the erection upon such site of a domestic building, other than a dwelling-house, and having no basement storey, the ground floor of which may wholly or partially cover such site; and where any such building is so erected, the open space required by this byelaw to be provided in the rear of such building shall be provided free from any erection thereon above the level of the floor line of the first floor, except a skylight for the purpose of lighting and ventilating the ground floor, the height of which shall not exceed *two feet* as measured to the projection of the eaves, and *three feet six inches* as measured to the highest part of the roof of such skylight.”

Windows to
be provided.

54. Every person who shall erect a new domestic building shall construct in the wall of each storey of such building which

shall immediately front or abut on such open spaces as, in pursuance of the byelaws in that behalf, shall be provided in connection with such building, a sufficient number of suitable windows, in such a manner and in such a position that each of such windows shall afford effectual means of ventilation by direct communication with the external air.

Windows.—There is no provision in s. 157 of the Public Health Act, 1875, specifically relating to windows. The present clause, however, is framed as a byelaw “with respect to the ventilation of buildings,” and is therefore supported by sub-s. (3) of that section. More specific provisions as to window-space of habitable rooms will be found in clause 56.

Places under local Acts.—Sections 110 to 115 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), contain provisions relating to the ventilation of certain buildings, but as these sections are not incorporated in the Public Health Act, 1875, they will not apply to any place, unless they are incorporated in a local Act.

55. Every person who shall erect a new domestic building shall so construct every room which shall be situated in the lowest storey of such building, and shall be provided with a boarded floor, that there shall be, for the purpose of ventilation between the under side of every joist on which such floor may be laid, and the upper surface of the asphalte or concrete with which, in pursuance of the byelaw in that behalf, the ground surface or site of such building may be covered, a clear space of *three inches* at the least in every part, and he shall cause such space to be thoroughly ventilated by means of suitable and sufficient air-bricks, or by some other effectual method.

Ventilation
under floor of
lowest storey.

Provided that the foregoing requirement shall not apply in the case of a room provided with a solid floor composed of boards, planks or wood blocks, laid or bedded directly upon concrete or other similar dry and impervious foundation.

Ventilating space under floor.—The model byelaws contemplate that the site of every new building will be covered with a layer of asphalte or of concrete (clause 11). Clause 55 requires that the lowest boarded floor, unless it be a solid floor bedded directly on concrete or other like foundation, shall be so constructed as to leave a clear space of at least three inches between the upper surface of the asphalte or concrete layer and the under side of the joists. (See Plate XIV., Fig. 32, Appendix.) The clause further provides (with a view to the ventilation of the lower part of the house, and the prevention of dry-rot amongst the timbers of the floor) for the constant admission of fresh air into the space referred to by means of air-bricks, etc.

56. Every person who shall erect a new building shall construct in every habitable room of such building one window,

Windows of
habitable
rooms.

at the least, opening directly into the external air, and he shall cause the total area of such window, or, if there be more than one, of the several windows, clear of the sash frames, to be equal at the least to *one-tenth* of the floor area of such room.

Such person shall also construct every such window so that *one-half*, at the least, may be opened, and so that the opening may extend in every case to the top of the window.

Windows of habitable rooms.—Like clause 54, this byelaw is so framed as to bring it within the scope of s. 157 (3) of the Public Health Act, 1875; but it also secures the proper lighting of the interior of the buildings. The requirement that each window shall be so constructed as to open up to the top appears to be applicable to any sort of window, although the contrary is sometimes urged. In the case of windows with transoms, for example, the byelaw could be complied with by making the parts above the transoms swing on pivots or hinges. The byelaw may be compared with s. 70 (1) (c) of the London Building Act, 1894.

Height of rooms intended for human habitation.—The section last mentioned prescribes minimum heights for habitable rooms. There is no power to make a byelaw on this subject under s. 157 of the Public Health Act, 1875. Where, however, Part III. of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), has been adopted by either an urban or a rural district council (see ss. 3 and 50 of the Act), or the provisions of s. 23 (1) have been put in force under s. 5 of the Act, the district council will be empowered to make such a byelaw. For a form of byelaw suggested by the Editors see p. 218, *post*. It might be inserted with certain other clauses between clauses 51 and 52.

Ventilation
of habitable
rooms
without
fireplaces.

57. Every person who shall erect a new domestic building shall cause every habitable room of such building which is without a fireplace, and a flue properly constructed and properly connected with such fireplace, to be provided with special and adequate means of ventilation by a sufficient aperture or air-shaft which shall provide an unobstructed sectional area of *one hundred square inches* at the least.

Ventilation of habitable rooms.—In rooms provided with a fireplace, the chimney acts as a very efficient ventilating shaft. There is, however, no power to enforce the provision of a fireplace, etc., to every habitable room, and hence, in the interests of health, clause 57 prescribes other means of ventilation for such rooms as may not have fireplaces. In connection with the last two lines, it may be mentioned that the ordinary dimensions of a chimney flue are not less than *fourteen inches* by *nine inches*. (See s. 6 of the Chimney Sweepers Act, 1840 (3 & 4 Vict. c. 85).)

Ventilation
of public
buildings.

58. Every person who shall erect a new public building shall cause such building to be provided with adequate means of ventilation.

Ventilation of public buildings.—The ventilation of a “public building” (see definition, *ante*, p. 56), depends so much upon circumstances, that it is

undesirable to make a byelaw on the subject, the terms of which would be more specific than clause 58. As pointed out elsewhere in regard to some other matters, a general form of byelaw has the merit of giving the district council a practically free hand as to the arrangements which are to be deemed "adequate."

Places under local Acts.—This clause must be omitted if, by incorporation with any local Act, ss. 110—112 of the Towns Improvement Clauses Act, 1847, are in force in the district of the local authority.

Byelaws as to the paving of yards, etc.—Where the local authority have power, under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws as to the paving of yards and open spaces in connection with dwelling-houses, such byelaws may be inserted, under a separate heading, between clauses 58 and 59 of this series. For approved forms of byelaws, see p. 219, *post*.

With respect to the drainage of buildings.

59. Every person who shall erect a new building shall cause the subsoil of the site of such building to be effectually drained by means of suitable earthenware field pipes, properly laid to a suitable outfall, wherever the dampness of the site renders such a precaution necessary. Subsoil drainage.

He shall not lay any such pipe in such a manner or in such a position as to communicate directly with any sewer or cesspool, or with any drain constructed or adapted to be used for conveying sewage, but shall provide a suitable trap, with a ventilating opening, at a point in the line of the subsoil drain as near as may be practicable to such trap.

Definitions.—The expressions "drain" and "sewer," as used in the byelaws, have the same meaning as in s. 4 of the Public Health Act, 1875.

Drainage of subsoil.—In connection with clause 59, reference may be made to clause 11 and the note thereon. The concreting of the sites of buildings, which is required by that clause, is intended to prevent ground air and moisture rising from the subsoil into the interior of the buildings. The clause in question only applies to "domestic buildings." (See definition, *ante*, p. 56.) Clause 59, however, aims at getting rid of subsoil water from the site of any new building by means of a porous drain properly laid to a suitable outfall. A drain of this kind should, if practicable, discharge in the open air without any communication with a sewer, cesspool, or sewage drain. Communication with a cesspool is especially objectionable, as when the cesspool is full the sewage may back up the drain, and saturate the subsoil. Assuming, however, that it is necessary that the subsoil drain should discharge into any drain or receptacle for sewage, the disconnecting trap and ventilating opening, required by paragraph 2 of the present clause, are indispensable as a precaution against the passage of foul air into the subsoil beneath the building. The maintenance of a water seal in the trap in dry weather is a matter requiring attention; but this would probably be regarded as outside the scope of the byelaws.

Scope of the model byelaws with respect to the drainage of buildings.—The power to make byelaws as to the drainage of buildings, which is conferred by s. 157 of the Public Health Act, 1875, is not expressly limited to new buildings, and the inference from the proviso to that section would seem to be that the power was intended to be applicable as regards any building erected after the times mentioned in the proviso. The inference is strengthened by s. 23 (2) of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), which provides that any byelaw made under s. 157 with regard to the drainage of buildings “may be made so as to affect buildings erected before the times mentioned in the said section.” The model clauses of the Local Government Board on the subject of drainage, however, are all drawn so as to apply only to persons erecting *new* buildings. The Public Health Act, 1875, s. 23, does not enable the local authority to compel an owner to alter his drainage system in existing buildings if it is in fact sufficient. (See *Attorney-General v. Clerkenwell Vestry*, (1891) 3 Ch. 527; 60 L. J. Ch. 788; 65 L. T. 312; 40 W. R. 135). If it is proposed, under s. 157 of the Act of 1875, as extended by s. 23 (2) of the Public Health Acts Amendment Act, 1890, to make byelaws with respect to drainage applicable to existing buildings, the proposed clauses should be submitted for the approval of the Local Government Board as a separate series. Suggested clauses on the subject will be found on pp. 226 to 230, *post*.

Communication of drains with sewers.—Byelaws under s. 157 of the Public Health Act, 1875, cannot properly regulate the manner in which communications are to be made between house drains and the sewers. The matter should be dealt with by means of regulations under s. 21 of the Act. Such regulations do not require the approval or confirmation of the Local Government Board. (See Public Health Act, 1875, s. 188.)

Duplicate drains.—In certain districts byelaws made under s. 157 (4) of the Public Health Act, 1875, are in force, requiring a duplicate system of house drainage—one set of drains for sewage only, and one for surface water only—to be provided. Such a requirement could scarcely be regarded as reasonable, unless the council had adopted, or were immediately on the point of adopting, a duplicate system of *sewers*. It has been felt also that the arrangement—in the absence of special statutory provisions applicable to the subject—would be beset with some practical difficulties—amongst others, that it would be impossible to prevent occupiers passing foul matters into the surface-water drains, or surface water into the sewage drains. The observations of the Court of Appeal in the case of *Graham v. Wroughton*, (1901) 2 Ch. 451; 70 L. J. Ch. 673; 65 J. P. 710; 49 W. R. 643; 84 L. T. 744; 17 T. L. R. 573, however, would seem to show that a remedy might be found for such a misuse of the drains as this would imply, at any rate if the drains communicated with sewers of the local authority.

The following is a form of byelaw providing for duplicate drains, which has been approved by the Local Government Board:—

Drains to be constructed on the “duplicate” system.

Where the council have provided or have the right to use for the disposal of surface or subsoil water, to the exclusion of sewage, a sewer or drain or other means of drainage and disposal within *one hundred feet* of the site of a new building, the person who shall erect such new building shall construct

a covered drain or drains for conveying surface water, and where necessary subsoil water, to the exclusion of sewage from such building, and shall cause such covered drain or drains to communicate with any such sewer or drain or other means of drainage and disposal as is hereinbefore mentioned.

He shall also construct a covered drain or drains for conveying sewage only from such building, and shall cause such drain or drains to communicate with any sewage sewer within *one hundred feet* of the site of such building, or with a covered cesspool to be constructed in accordance with any byelaws for the time being in force in or affecting the district.

Provided always that the foregoing requirements as to the construction of a drain or drains for conveying sewage shall not apply to any building or premises from which surface or subsoil water only is intended to be conveyed.

Where such a clause as the above is proposed, certain provisions of the model series should probably be limited to "drains for conveying sewage," *e.g.*, the last paragraph of sub-clause (5) of clause 62 and clause 63.

60. Every person who shall erect a new building shall, for the purpose of carrying from the roof or flat of such building all water which may fall thereon, cause suitable and sufficient pipes or trunks extending from the roof or flat to the ground, to be fixed to the front or rear or to one of the sides of such building, and to be connected with gutters shoots or troughs which shall be provided, constructed and fixed in such a manner and in such a situation as to receive all water that may fall on the roof or flat without causing dampness in any part of any wall or foundation of such building.

Down-pipes
for roof
drainage.

Roof-drainage—Provision of guttering and down-pipes.—Section 74 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), which is incorporated with the Public Health Act, 1875, and, as so incorporated, amended by s. 160 of the latter Act, enables an urban district council, and any rural district council invested with the necessary urban powers, to make an order requiring any house or building in or near a street to be furnished with a shoot or trough, connected with a similar shoot on the adjoining house, or with a pipe or trunk affixed to the front or side of the building, from the roof to the ground, to carry the water from the roof in such manner that the water shall not fall upon persons passing along the street, or flow over the footpath. The section is silent as to what is to be done where there is no footpath, and in any case it seems desirable that the byelaws of the local authority should require the provision of proper roof-guttering and down-spouts when a new building is being erected, whether in or near to a street or not. The provisions of this clause, indeed, have a

specific and important bearing in connection with the prevention of dampness in walls and foundations, the effects of which upon health are referred to *ante*, in a note on clause 11.

The down-pipes should be so fixed as to leave a clear space of an inch or two between the pipes and the walls. The material of which the pipes are constructed will usually be cast iron. The byelaw does not refer to the mode of discharge of the down-pipes at their lower ends; but as to this, where the rainwater is to be conveyed away through the drains, the pipes might be required to discharge over channels leading to trapped gullies. Where, however, the water is collected for use, a gully would be a disadvantage rather than otherwise, as there would be nothing to prevent slop-water and other foul liquids being thrown down the opening.

Level of
lowest storey
in relation
to drainage.

61. Every person who shall erect a new building shall construct the lowest storey of such building at such level as will allow of the construction of a drain sufficient for the effectual drainage of such building, and of the provision of the requisite communication with any sewer into which such drain may lawfully empty, at a point in the upper half diameter of such sewer, or with any other means of drainage with which such drain may lawfully communicate.

Provided that this byelaw shall not be deemed to apply to a cellar intended for storage purposes only and constructed in a dry soil or so as to be impervious to water.

Level of lowest storeys of buildings.—The object of this clause, which has relation only to the effectual drainage of buildings, is to prevent the construction of the lower part of a building in such a way that the drains cannot have a proper fall towards, and a proper communication with, the sewer or other means of drainage into which the sewage is to be conveyed. It does not prevent the construction in dry soils of cellars for storage purposes below the level at which the drains have to be carried. In such cases an iron drain properly constructed and properly supported might be carried through the cellar. As to the elevation of excavated and low-lying sites, see clauses 12 and 13, on pp. 76, 77.

Building over sewers and drains.—Section 26 of the Public Health Act, 1875, provides that “any person who in any urban district, without the written consent of the urban authority, causes any building to be newly erected over any sewer of the urban authority . . . shall forfeit to the urban authority the sum of five pounds and a further sum of forty shillings for every day during which the offence is continued after written notice in this behalf from the urban authority; and the urban authority may cause any building vault arch or cellar erected or constructed in contravention of this section to be altered pulled down or otherwise dealt with as they may think fit, and may recover in a summary manner any expenses incurred by them in doing so from the offender.”

Building over drains can scarcely be prevented by means of byelaws unless the prohibition is limited to particular cases. A general prohibition would be unreasonable as applied, *e.g.*, to the re-erection of buildings where there are existing drains beneath them.

62.—(1.) Every person who shall erect a new building shall, in the construction of every drain of such building, other than a drain constructed in pursuance of the byelaw in that behalf for the drainage of the subsoil of the site of such building, use good sound pipes formed of glazed stoneware, heavy cast iron or other equally suitable material. Construction of drains.

(2.) He shall cause such drain to be of adequate size, and, if constructed or adapted to be used for conveying sewage, to have an internal diameter not less than *four inches*, and to be laid with a proper fall, and with water-tight, socketed, or other suitable joints. Diameter.
Fall.
Joints.

(3.) If he shall construct such drain of iron pipes, he shall cause such drain to be properly supported on suitable and sufficient piers or other suitable and sufficient supports, or to be laid in a bed of good concrete. Support.

(4.) If he shall construct such drain otherwise than of iron pipes, he shall cause such drain to be laid in a bed of good concrete.

(5.) He shall not construct such drain so as to pass under any building, except in any case where any other mode of construction may be impracticable. Drain under building.

If he shall construct such drain so as to pass under any building, he shall cause such drain to be so laid in the ground that there shall be a distance equal at the least to the full diameter thereof between the top of such drain at its highest point and the surface of the ground under such building.

He shall also cause such drain to be laid in a direct line for the whole distance beneath such building, and if constructed otherwise than of iron pipes to be completely embedded in and covered with good and solid concrete, at least six inches thick, all round.

He shall likewise cause adequate means of access to be provided in connection with such drain at each end of such portion thereof as is beneath such building.

(6.) He shall cause every inlet to such drain, not being an inlet provided in pursuance of the byelaw in that behalf as an opening for the ventilation of such drain, to be properly trapped. Inlets to be trapped.

Construction of drains.—Sub-clause (5) prohibits the laying of drains (other than subsoil drains) under any building, where this is not unavoidable, and contains special regulations affecting the construction of a drain if it is laid so as to pass under a building; but sub-clauses (1), (2), (3), (4) and (6)

apply to any drain of a building other than a subsoil drain, whether laid under a building or otherwise. The construction of subsoil drains is regulated by clause 59. As regards the *material* of which ordinary house drains are to be constructed, clause 62 prescribes glazed stoneware, heavy cast iron, or any other "equally suitable material." The *size* of drains is dealt with in sub-clause (2). The actual diameter must, of course, depend to a great extent upon circumstances; but every drain should be, as far as possible, self-cleansing, and for ordinary purposes four-inch drains are in many respects superior to those of larger diameter, because of the greater scouring effect of the flow of water through the smaller drain. For all ordinary purposes, therefore, the use of four-inch drain pipes should be encouraged. The proper support or bedding of the drain as a precaution against settlement, and the consequent disturbance of the joints, is provided for in sub-clauses (3) and (4). The proper *fall* for the drain depends to a great extent upon its diameter: 1 in 30 or 1 in 40 would be a fair fall; 1 in 50 would not be unsuitable for a house drain. It is not desirable, however, to specify in the byelaws a minimum fall for drains, as in some exceptional cases an ordinary fall such as 1 in 40 might not be obtainable. To fix, say, "1 in 40" as a minimum, therefore, might unduly hamper building operations.

The *joints* of a stoneware drain may be made in cement, but any other suitable joints are permitted (*e.g.*, hemp and cement or good composition). Joints run with lead, or flanged and bolted joints, are suitable in the case of iron drains.

"Portland cement, if carefully applied, makes an excellent and lasting joint; but care needs to be taken to ensure that any cement that squeezes out of the joint into the interior of the pipe is entirely wiped off, or it will 'set' and leave ridges inside that will form so many obstructions to the flow of water, and lodging places for solid matters carried down with the sewage. It is needful also to be certain that the cement is properly applied all round the joint. . . . Another kind of joint, which has been much used of late years, is made by casting on to the spigot and socket of each pipe a ring of specially prepared patent material, the two rings being fixed *in situ* with a composition of Russian tallow and resin. . . . It is, however, desirable to . . . add a ring of cement outside the patent joint."* Too much attention cannot be paid to the jointing of drain pipes. In the hands of negligent workmen these joints have been a fruitful, if indirect, cause of injury to health.

Sub-clause (6) requires every inlet to a drain whether passing under a building or otherwise, unless it be an inlet for ventilation provided in pursuance of clause 65, to be "properly trapped." The essential features of a "proper" trap may be said to be that it shall be self-cleansing, and capable, if properly ventilated, of maintaining a sufficient water-seal, due allowance being made for evaporation, syphonage, etc. It should not be larger than is consistent with a complete change of its contents at every flush, and in no case should the sectional area of the water-way through the trap be greater than that of the drain with which it communicates. The use of the old-fashioned "mason's trap" or "dip-trap," and of the "bell" and other objectionable forms of trap which become unsealed on the removal of the cover, is, in effect, prohibited by the byelaw. "D" traps in connection with waterclosets are expressly forbidden by clause 69.

* "The Dwelling." By Messrs. P. Gordon-Smith and Keith D. Young, in Stevenson and Murphy's "Treatise on Hygiene and Public Health."

In the case of *drains passing unavoidably beneath a building*, the requirement as to embedding the drains in concrete, except in the case of iron pipes, should on no account be omitted. It is equally important that drains should be laid beneath buildings in direct lines, and with suitable means of access for purposes of inspection at each end of the portion beneath the building. Where the drain passes through a wall, a stone lintel or relieving-arch is desirable as a protection against settlement. The byelaws, however, do not require this. It may be assumed to be unnecessary to lay a drain under any detached, or semi-detached, house if proper arrangements are adopted.

63. Every person who shall erect a new building shall provide, within the curtilage thereof, in every main drain or other drain of such building which may directly communicate with any sewer or other means of drainage into which such drain may lawfully empty, a suitable trap at a point as distant as may be practicable from such building and as near as may be practicable to the point at which such drain may be connected with such sewer or other means of drainage. Drains to be trapped.

He shall provide in connection with such trap proper means of access for the purpose of cleansing.

Curtilage.—Curtilage is described as a “little garden, yard, field, or piece of void ground lying near and belonging to the messuago, a little croft, or court, or place of easement, to put cattle in for a time, or to lay in wood, coal, or timber, or such other things necessary for the household.” (See *per* MATHEW, J., quoting from Stroud’s Judicial Dictionary, in *Pilbrow v. Vestry of St. Leonard, Shoreditch*, [1895] 1 Q. B. at p. 37.) The learned judge also referred to the description of “curtilage” given in Jacobs’ Law Dictionary, which is “a courtyard, back side, or piece of ground lying near and belonging to a dwelling-house.” In *Pilbrow v. St. Leonard, Shoreditch, ubi supra*, which was a case under the Metropolis Management Acts, the point was, whether a drain which received the sewage from two blocks of buildings, having between them a causeway, which was a paved yard used for the purposes of both blocks, and having in it a dustbin common to the occupiers of both blocks, was “used for the drainage of premises within the same curtilage” by reason of the yard being within the curtilage of both blocks, the Queen’s Bench Division holding that it was, and that the yard was within the curtilage of both blocks. This judgment was upheld by the Court of Appeal, consisting of Lord ESHER, M.R., and LOPES, L.J. (RIGBY, L.J., *diss.*), [1895] 1 Q. B. 433; 59 J. P. 68.

In *Blundell v. Price* (“Local Government Chronicle,” 28th May, 1898), six cottages belonging to the same owner were divided into two groups of three each by a passage which tenants of them were entitled to use. There was a door at the end of the passage to which each of the tenants had a key. There was also a passage along the front of the cottages and another at the back of the gardens belonging to them, and parallel with the one in the front. The first-mentioned passage connected the two last-mentioned, the three passages forming the letter H. The cottages were drained into two common drains which ran each way along the front passage, uniting at the junction of the cross passage, and were continued in one pipe down it and

across the passage at the back of the gardens and into the public sewer, which was under a public street, running parallel to the last-mentioned passage, and separated from it by a board fence. The pipe was trapped between the point where the last drain joined it and its junction with the public sewer. The justices convicted the appellant for not providing a trap for each house above the point where the drain of that house joined the common pipe as required by the byelaw. It was held by the Queen's Bench Division that the houses were not within the same curtilage, and that the pipe along the dividing passage and the branch pipes in the front passage, in so far as they received the drainage of two or more houses, fell within the definition of a "sewer." WILLIS, J., in the course of his judgment, said the passages marked on the plan were passages and nothing else, and that they did not satisfy the tests indicating what is a curtilage as conveyed by the language of MATHEW, J., in *Pilbrow v. St. Leonard, Shoreditch*, *ubi supra*, and of Lord Esher, M.R., or LOPEZ, L.J., in the same case in the Court of Appeal.

The houses and shops within an arcade, known as the "Lowther Arcade," which was a passage arched over by a common roof with a range of houses and shops on either side, these houses and shops being approached by the passage aforesaid, and its use being essential to the enjoyment of each and every of the houses and shops, were held not to be within the same curtilage so as to bring a line of pipes which ran down the centre of the arcade, and received the drainage of the houses and shops, within the definition of a "drain" (*Vestry of St. Martin's-in-the-Fields v. Bird*, C. A., [1895] 1 Q. B. 428; 64 L. J. Q. B. 230; 71 L. T. (N.S.) 868; 43 W. R. 194).

A pair of semi-detached houses may be one building only (*Kershaw v. Taylor*, [1895] 2 Q. B. 208, 471; 64 L. J. M. C. 245; 73 L. T. (N.S.) 274; 44 W. R. 28; 59 J. P. 726; *Hedley v. Webb*, [1901] 2 Ch. 126; 84 L. T. 526; 70 L. J. Ch. 663; 65 J. P. 425), but they may be separate buildings and not within the same curtilage, as in *Humphrey v. Young* ([1903] 1 K. B. 44; 72 L. J. K. B. 6; 87 L. T. (N.S.) 551; 51 W. R. 298; 67 J. P. 34; 1 L. G. R. 142), where it was held that no general rule could be laid down as to whether a pair of semi-detached houses should be regarded as one building or more. "It is in every case a question of fact. Here the two houses were stated to have gardens in front and behind separated by fences, and to have been always occupied by separate tenants. Upon that evidence the justices found as a fact that the two houses were separate buildings not within the same curtilage. It is impossible to say that there was not evidence upon which they could so find."

Disconnection of house drains from sewers.—The proper disconnection of the house drains from the sewer, or from the cesspool, where this method of drainage is adopted, is necessary to prevent foul air ascending through the drains into the building. The trap provided for this purpose must be self-cleansing. It should not be too large, or the standing water within it will not be changed with adequate frequency; and above all things, it must have a sufficient dip to maintain its water seal against the evaporation induced by the current of air admitted through the ventilating opening.

Traps such as the "manhole" syphon trap should never be employed, its form of construction being so faulty that sewage collects in the bottom and central portion of the trap. There appears to be no actual necessity for the purposes of the byelaw for the disconnecting trap being provided "within the curtilage" of the building, and in the case of a building (a shop, for example) erected close up to the boundary of a street, it might, in some

cases, be difficult to comply with the requirement. If, therefore, the omission of the words "within the curtilage thereof" were proposed by the district council it would probably be assented to by the Local Government Board, although it is clearly desirable to encourage the setting back of buildings where practicable. The trap could then be placed beneath the footpath, and clause 65, (i.) could be complied with by carrying up a pipe or shaft (extraction pipe) against the front of the house, with an inlet pipe at the head of the drain, or by providing an air inlet carried up in or through the front external wall to a foot or two above the footpath, and an extraction pipe at the head of the drain. By arrangement with the district council also, an inlet of suitable design might perhaps be formed in the surface of the footway, or, in the case of a kerbed footpath, in the face of a kerb. An air inlet to a manhole or inspection chamber formed in connection with a disconnecting trap provided under clause 63, may be made by sufficient apertures in the manhole cover, or by a pipe or shaft communicating with the chamber through an opening in one of its sides. (See Diagram, Plate XV., Fig. 33, Appendix.)

64. A person who shall erect a new building shall not construct the several drains of such building in such a manner as to form in such drains any right-angled junction. He shall cause every branch drain or tributary drain to join another drain obliquely in the direction of the flow of such drain.

Junction of drains.

Right-angled junctions in drains prohibited.—No insistence should be necessary in order to ensure compliance with the requirements of this byelaw. Branch drains should not only enter another drain obliquely in the direction of the flow, but in the case of a horizontal drain, the junction should be at the side.

65. Every person who shall erect a new building shall, for the purpose of securing efficient ventilation of the several drains of such building constructed or adapted to be used for conveying sewage, comply with the following requirements :—

Ventilation of drains.

- (i.) He shall provide at least two untrapped openings to such drains, of which openings one shall be situated as near as may be practicable to the trap which, in pursuance of the byelaw in that behalf, shall be provided between the main drain or other drain of the building, and the sewer or other means of drainage with which such drain may lawfully communicate, and on that side of the trap which is the nearer to the building; and the second opening shall be as far distant as may be practicable from the point at which the first-mentioned opening shall be situated.

Air inlet and outlet.

One of the aforesaid openings shall be at or near the level of the surface of the ground adjoining such

opening, and shall communicate with the drains by means of a suitable pipe, shaft, or disconnecting chamber.

The other opening shall be obtained by carrying up a pipe or shaft, vertically, to such a height and in such a manner as effectually to prevent any escape of foul air, from such a pipe or shaft into any building in the vicinity thereof, and in no case to a less height than *ten feet*.

Provided always, that the soil pipe of any watercloset, in every case where the situation, sectional area, height, and mode of construction of such soil pipe shall be in accordance with the requirements applicable to the pipe or shaft to be carried up from the drains, may be deemed to provide the necessary opening for ventilation which would otherwise be obtained by means of such last-mentioned pipe or shaft.

Openings to
be covered
with gratings,
etc.

(ii.) He shall cause every opening provided in accordance with the arrangements herein-before specified to be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction in or injury to any pipe or drain by the introduction of any substance through any such opening. He shall, in every case, cause such grating or cover to be so constructed and fitted as to secure the free passage of air through such grating or cover by means of a sufficient number of apertures, of which the aggregate extent shall be not less than the sectional area of the pipe or drain to which such grating or cover may be fitted.

Sectional
area of
ventilating
shafts.

(iii.) Every pipe or shaft which may be used in connection with the arrangements herein-before specified shall be of a sectional area not less than that of the drain with which such pipe or shaft may communicate, and not less in any case than the sectional area of a pipe or shaft of the diameter of *four inches*.

Unnecessary
bends or
angles pro-
hibited.

(iv.) No bend or angle shall (except where unavoidable) be formed in any pipe or shaft used in connection with the arrangements herein-before specified.

Drainage
where
waterclosets

(v.) Provided always, that where a watercloset shall be constructed so as not to have any internal communication

with any building, and where the distance between the watercloset and the trap which, in pursuance of the byelaw in that behalf, shall be provided between the drain with which such watercloset communicates, and the sewer or other means of drainage into which such drain may lawfully empty, shall be not more than *ten feet*, or shall be more than *ten feet* and not more than *thirty feet*, the following provisions shall have effect, that is to say:—

are outside buildings.

- (a) Where such distance shall be not more than *ten feet*, the requirements of this byelaw shall not apply to the case.
- (b) Where such distance shall be more than *ten feet* but shall not be more than *thirty feet*, an opening shall be obtained by carrying up from a point in the drain with which the water-closet communicates, as far distant as may be practicable from the trap, which, in pursuance of the byelaw in that behalf, shall be provided between such drain and the sewer or other means of drainage into which it may lawfully empty, a pipe or shaft, vertically to such a height and in such a manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof, and in no case to a less height than *ten feet*, and such pipe or shaft shall be of a sectional area not less than that of the drain with which it may communicate, and not less in any case than the sectional area of a pipe or shaft of the diameter of *four inches*.

Ventilation of house drains.—This clause was not formerly limited in terms to sewage drains, although probably it was intended to apply only to such drains. The passage of sewer air into the house drains being theoretically prevented by the provision of the trap required by clause 63, it remains to prevent the accumulation of foul air in the drains above the trap by the proper ventilation of those drains. For this purpose there must be at least two openings—an inlet and an outlet—one of these being placed on the house side of, but as near as practicable to the trap, and the other at the opposite extremity of the main drain. (See Diagrams, Plate XVI., Figs. 34 and 35, Appendix.) Every branch drain also, unless of short length, should be ventilated at the highest point. Byelaws have been allowed by the Local Government Board requiring this to be done in the case of any branch (sewage) drain not less than thirty feet in length; and clause 66 requires that

every soil pipe shall be ventilated. The inlet and outlet provided for by clause 65 should be of unequal height above the drain so as to induce a sufficient current of air throughout. The byelaw requires one of the two openings to be at or near the level of the surface of the ground, and the other to be carried up to a sufficient height to provide a safe outlet. In determining to what height the shaft must be carried in order to comply with the byelaw, the possibility of foul air being carried from the open end into any building through a window or ventilating opening, or even down a chimney, or through the interstices of the slates or other covering of the roof, must be considered. As to the arrangement of ventilating openings in certain cases where the buildings come right up to the street, see note on clause 63. It is sometimes objected that offensive smells arise from openings at or near the level of the ground, such as are required by the byelaw. It may be safely said, however, that if the construction or condition of the drains be not at fault, and the ventilating arrangements themselves be not out of order, this can only arise from temporary causes. Thus, the pressure of the wind, or the flushing of the drains when a watercloset is in use, may momentarily occasion a down draught in the outlet pipe and a consequent upcast in the inlet pipe; but the constant emission from the ground-level opening of offensive effluvia, if such occurs, must be held to indicate rather a defect in the drain or ventilators than an objection in principle to the arrangements prescribed. Sub-clause (v.) of clause 65 enables a person erecting a new building to dispense with one or both of the openings referred to in sub-clause (i.), in cases where there are no indoor waterclosets and the drains are not more than thirty feet in length. It is assumed that in such a case there can be no communication with the drain within the building. (See the first paragraph of clause 66.)

Ventilating openings to be suitably covered. — Sub-clause (ii.) requires that the ventilating openings shall be furnished with suitable gratings or covers. The contingency of birds selecting the top of a ventilating shaft for the construction of a nest appears somewhat remote; but a proper grated covering is very necessary in the case of openings at or near the level of the ground. Opinions differ as to the best means of finishing the open end of a ventilating pipe; some authorities being in favour of cowls, while others prefer to keep the end of the pipe open. The extracting power of the best cowls is doubtful. An efficient protecting cap is made by widening out the mouth of the pipe to about twice its area, and fixing on it a spherical wire grating to keep the aperture free. The aggregate extent of the apertures in the cover (whatever form it may take) should be at least equal to the sectional area of the pipe over which it is fixed; and, where necessary, the form of cover to a ground-level opening should be such that if dirt or stones should fall or be cast through the grating they would be received into a catch pit or dirt box, and not into the drain.

Diameter of ventilating pipes. (Clause 65 (iii.).)—It has already been pointed out (see note on clause 62) that, for all ordinary purposes, four-inch drains are equal, if not superior, to drains of larger diameter, and if four-inch drains are laid, the diameter of the ventilating shafts will not have to be greater than four inches. Under certain conditions, the soil pipe of a watercloset may be utilised as the ventilating outlet pipe required by clause 65. (See proviso to sub-clause (i.).) The diameter of soil pipes is regulated by clause 66.

Bends or angles in ventilators prohibited.—Every bend or angle in a ventilating pipe that can be dispensed with is a needless impediment to the passage of air through the pipe. The fantastic, snake-like forms which these pipes are sometimes made to assume in their passage upwards from the drains should, therefore, be discountenanced as much as possible.

Soil pipes as ventilators.—It may be pointed out that the provision under which the soil pipe of a watercloset may be deemed to provide the necessary opening for ventilation, which would otherwise be obtained by means of a pipe or shaft carried up ten feet or more under sub-clause (i.), stipulates that the situation, as well as the sectional area, height, and mode of construction of the soil pipe shall be such as to accord with the requirements applicable to a ventilating pipe other than a soil pipe. While, therefore, the soil pipe itself must always be ventilated (as required by clause 66), it cannot be deemed to take the place of a specially constructed shaft for the ventilation of the drains, if it is not situated at one of the extremities of the drain.

Rainwater pipes as ventilators.—Rainwater pipes are unsuitable for use as drain ventilators. Apart from other objections, they may be rendered useless for the purpose by a downward rush of water at a moment when ventilation is most necessary.

66. A person who shall erect a new building shall not construct any drain of such building in such a manner as to allow any inlet to such drain (except such inlet as may be necessary from the apparatus of any watercloset or any slop sink constructed or adapted to be used for receiving within such building any solid or liquid filth) to be made within such building.

Inlets to
drains.

He shall cause the soil pipe from every watercloset in such building to be at least *four inches* in diameter.

Soil pipes, and
waste pipes
from slop
sinks.

He shall cause such soil pipe and the waste pipe from every such slop sink to be fixed outside such building, and to be continued upwards without diminution of its diameter, and (except where unavoidable) without any bend or angle being formed in such soil pipe or waste pipe to such a height and in such a position as to afford, by means of the open end of such soil pipe or waste pipe, an outlet for foul air, at a safe distance from windows, chimneys, and other openings.

He shall so construct such soil pipe that there shall not be any trap between such soil pipe and the drains, or any trap (other than such as may necessarily form part of the apparatus of any watercloset) in any part of such soil pipe.

He shall also cause the waste pipe from every bath, sink (not being a slop sink constructed or adapted to be used for receiving

Other waste
pipes.

any solid or liquid filth), or lavatory, and every pipe in such building for carrying off foul waste water to be properly trapped and to be taken through an external wall of such building, and to discharge in the open air over a channel leading to a trapped gully grating.

Overflow
pipes.

He shall cause the overflow pipe from any cistern and from every safe under any bath or watercloset to be taken through an external wall of such building and to discharge in the open air.

Model clause 66.—This clause, like others in the series, has been a good deal altered by the Local Government Board. As now framed, it relaxes in some respects the requirements as regards certain waste pipes. But it now provides for the trapping of certain other pipes not formerly required to be trapped.

Inlets to drains.—The first paragraph of the byelaw contains an absolute prohibition of drain inlets within a building, except such as must necessarily be made in connection with indoor waterclosets and slop sinks. In such cases the byelaws provide for the proper trapping of a watercloset, and the proper ventilation of the soil pipe or waste pipe. No other inlet to the drains should, under any circumstances, be permitted within any building. A gully opening in the floor of a cellar, for instance, should not be allowed under any pretext.

Construction of soil pipes.—Soil pipes should be constructed of lead or “heavy” cast iron, and they should be so fixed as to leave a clear space of one or two inches between the soil pipe and the surface of the wall outside which it is placed. A minimum diameter of four inches is necessary in order to permit of the soil pipe being used as a drain ventilating shaft in cases such as are provided for by clause 65 (i.). (Cf. clause 65 (iii).) As to the effect of unnecessary bends or angles in a ventilating pipe, and the height to which such pipe should be carried to secure a safe outlet, see notes on clause 65 (i.) and (iv.). The fourth paragraph of the present clause prohibits the adoption of any system of house drainage which contemplates the interposition of any form of a trap between a watercloset soil pipe and the drains. In this position a trap needlessly interferes with the flow of sewage, etc., into the drains. It also precludes the use of a soil pipe for the purposes of ventilation, under clause 65 (i.).

Provision against “syphonage.”—Where two or three waterclosets discharge into the same soil pipe, the downward rush caused by the flushing of one closet, and still more by the flushing of any two of the closets simultaneously, may cause the trap of another closet to become unsealed by “syphonage.” To prevent this, an air pipe is usually taken from the main pipe below the branch from the lowest closet, and continued up to a point above the highest trap, where it is again connected with the main pipe. It may, however, be carried up without again entering the main pipe, to a point above the eaves. With this air pipe, a separate vent pipe from each trap is connected. The vent pipe enters the upper side of the trap below the crown, and thus supplies air so as to relieve the suction. It also affords means by which any foul air which may enter the branch from the soil pipe

can be safely got rid of. In good work there would probably be no difficulty in securing the adoption of "anti-syphonage" arrangements without a byelaw, and the model series contains no provision on the subject. But if a byelaw for the purpose is proposed it might be based on a clause which is in force within the county of London. This byelaw was made by the London County Council under s. 39 (1) of the Public Health (London) Act, 1891.

Waste pipes from baths, sinks, lavatories, etc.—The model clause requires that the waste pipes from slop sinks intended for the reception of "solid or liquid filth"* shall be constructed, to the extent indicated in the third paragraph, like the soil pipes of waterclosets. Waste pipes from "house-maids'" and ordinary scullery or other sinks not intended to receive excreta, and from baths and lavatories, and all other pipes in the building for carrying off foul waste water, are to be trapped, to be carried through an external wall, and to discharge in the open air over a channel leading to a trapped gully. By this means direct connection between the drains and the interior of the building is prevented. The byelaw also prevents these waste pipes being made to discharge into rainwater heads or down spouts, an arrangement which has been the cause of nuisance, and occasionally of more serious mischief, in the neighbourhood of windows. As regards the trapping of these pipes, it will be recognised that any pipe conveying dirty water may in time become foul from accumulations on its inner surface, when, if the pipe be not properly trapped, unwholesome effluvia will enter the building.

As to the requisites of a proper trap, see note on p. 130.

Where sinks, lavatories, and baths are connected to a common waste pipe, the water seals of their traps should be protected against syphonage by proper vent pipes. (See note above.)

Urinal waste pipes.—The construction of urinals is not a matter which is within the scope of the byelaws. The drainage arrangements in connection with such conveniences will, however, be regulated, where the model byelaws are in force, by the first and fifth paragraphs of clause 66, in the case of urinals within buildings; but the necessity for any more explicit provisions on the subject may be doubted, and it is certainly not expedient to encourage the provision of urinals within buildings. They are very apt to cause nuisance from the difficulty that arises in keeping them clean. In all forms of urinal, whether for public or private use, it is desirable that the urine should be discharged into a large body of water, and that regular and automatic flushing should be applied to the basin or trough.

With respect to waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings.

67. Every person who shall construct a watercloset or earthcloset in a building shall construct such watercloset or earthcloset

One side of watercloset or earthcloset to be an external wall.

* Such slop sinks are chiefly met with in hospitals, and other similar institutions.

in such a position that one of its sides at the least shall be an external wall.

General powers of local authority as to waterclosets, etc.—Section 36 of the Public Health Act, 1875, which empowers a local authority to give notice requiring the owner of a house to provide a sufficient watercloset, earthcloset, or privy, and, in case of non-compliance, empowers the local authority to do the necessary works and recover the expenses, does not empower such authority to enforce a general resolution that in all such cases within their jurisdiction a particular system shall be adopted; but they are bound to exercise their discretion in each particular case, and consequently a notice in accordance with the general resolution, and requiring compliance with its provisions, is invalid (*Wood v. Widnes Corporation*, [1898] 1 Q. B. 463; 62 J. P. 117; 67 L. J. Q. B. 254; 77 L. T. 779; 46 W. R. 293; 14 T. L. R. 192; *Tinkler v. Wandsworth Board of Works* (1858), 2 De G. & J. 261; 27 L. J. Ch. 261; 30 L. T. (o.s.) 147; 22 J. P. 223). They have no power to require the owner to supply any particular kind of watercloset; they have only power to require him to supply a sufficient one (*Robinson v. Mayor, etc. of Sunderland* (1898), 62 J. P. 216). Where a local authority proceeds to enforce an improper requirement as above indicated an injunction will lie to restrain them (*Tinkler v. Wandsworth Board of Works*, *supra*; *Robinson v. Mayor, etc. of Sunderland*, *supra*). If, however, the owner allows them to do the works, he may raise objection on their seeking to recover from him the amount expended (*Wood v. Widnes Corporation*). See as regards earthclosets, the notes on pp. 23 and 24 of “Model Byelaws.”*

Byelaws as to waterclosets, earthclosets, etc.—Unlike any of the preceding clauses which relate to buildings, the model byelaws numbered 67 to 91 in this series are not limited in their application to persons erecting new buildings, but extend to every case in which, after the confirmation of the byelaws, a watercloset, earthcloset, privy, ashpit, or cesspool may be constructed in connection with a building, provided that the building be one erected subsequently to the times mentioned in s. 157 of the Public Health Act, 1875. (See note, p. 43.) Where Part III. of the Public Health Acts Amendment Act, 1890, has been adopted by an urban or rural district council, or where, in the case of a rural district, s. 23 (2) of that Act has been otherwise put in force (see ss. 3 and 5 of the Act of 1890), the byelaws in question may be “made so as to affect buildings erected before the times mentioned in the said section”; and clause 92 gives effect to this provision. The clause must, of course, be omitted in the case of any local authority not having powers under s. 23 (2). As to the making of byelaws under sub-s. (1) of s. 23 of the last-mentioned Act, with respect to “the keeping waterclosets supplied with sufficient water for flushing,” see notes on pp. 42, 143.

Waterclosets and earthclosets to have one side in an external wall.—The soil pipe of every indoor watercloset must, under clause 66, be fixed outside the building; and under clause 68, provision must be made for the lighting and ventilation of waterclosets and earthclosets wherever situated. In order to enable this to be done, one side at least of the closet must be an external wall.

Earthclosets within buildings.—It will be noticed that the byelaws permit of the construction of an earthcloset within a building, if it be

* London: Shaw & Sons and Butterworth & Co.

properly constructed in a suitable position, and if it have a movable receptacle for filth. So long as a sufficient supply of dry earth of suitable quality is always available for use, and is systematically made use of in connection with the closet, perhaps no sufficient objection can usually be taken to the arrangement on sanitary grounds. It is, however, sometimes considered preferable to prohibit the construction of an earthcloset inside a building. (See "The Disposal of Refuse." By Dr. W. H. Corfield and Dr. Louis C. Parkes, in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health," and the Report of Mr. J. Netten Radcliffe "On certain means of preventing excrement nuisances.") This may be effected by means of a clause such as that suggested on p. 146, which, however, would probably not prevent the use inside a building of a movable earth commode. If indoor earthclosets are thus prohibited, clause 73 should be omitted, the references to an earthcloset in clause 67 should also be omitted, and some modification of clause 68, 71 and 72 will be necessary.

68. Every person who shall construct a watercloset or earthcloset in connection with a building, whether the situation of such watercloset or earthcloset be or be not within such building, shall construct in one of the walls of such watercloset or earthcloset a window of not less dimensions than *two feet by one foot*, exclusive of the frame, and opening directly into the external air.

Windows of waterclosets and earthclosets.

He shall, in addition to such window, cause such watercloset or earthcloset to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such watercloset or earthcloset, or by an air-shaft, or by some other effectual method or appliance.

Additional means of ventilation of waterclosets and earthclosets.

Lighting and ventilation of waterclosets and earthclosets.—The construction of a window is necessary for the proper lighting, as well as for the ventilation, of the closet; and it is desirable that a minimum size should be prescribed for the window, as the wholesome condition of the closet would be both directly and indirectly affected by the provision of insufficient means of lighting. The window should open to the extent of at least half its area, the opening extending to the top of the window, and this should be as near as possible to the ceiling. The additional means of ventilation required by the second paragraph of the clause must be considered necessary if only on the ground that the window may, and during the night, if the closet is inside the house, probably will, in many instances, be kept shut. In the case of a closet, the door of which opens directly into the external air, a small space left open beneath and over the door will meet all requirements.

69. Every person who shall construct a watercloset in connection with a building shall furnish such watercloset with a separate cistern, or flushing box of adequate capacity, which shall be so constructed, fitted, and placed as to admit of the supply of water for use in such watercloset without any direct connection between any service pipe upon the premises and any

Flushing apparatus of waterclosets

part of the apparatus of such watercloset, other than such cistern, or flushing box.

He shall furnish such watercloset with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or other receptacle, and for the prompt and effectual removal therefrom of any solid or liquid filth which may from time to time be deposited therein.

Pans of
waterclosets.

He shall furnish such watercloset with a pan, basin, or other suitable receptacle of non-absorbent material, and of such shape, of such capacity, and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin, or receptacle to fall free of the sides thereof, and directly into the water received and contained in such pan, basin, or receptacle.

“Containers”
and “D”
traps pro-
hibited.

He shall not construct or fix under such pan, basin, or receptacle any “container” or other similar fitting.

He shall not construct or fix in or in connection with the watercloset apparatus any trap of the kind known as a “D” trap.

Flushing of waterclosets.—The points to be considered in connection with this matter are (*a*) the sufficiency of the flush, and (*b*) the prevention of the contamination of the general water supply of the building through any connection with the closet. The sufficiency of the flush depends primarily upon the volume and force of the water liberated by each pull or lift of the valves; but it is greatly affected by the size and arrangement of the down pipe from the service cistern, the shape of the pan, and the way in which the water is made to enter the pan. A flush of two gallons, properly applied, may effectually cleanse a well-constructed closet pan, where double that quantity would be ineffectual in removing all traces of soil from one of improper shape, in which the water could not spread itself with sufficient force all over the internal surface of the pan. The only effectual method of protecting the general water supply against contamination from the closets is to provide a service cistern or flushing box for flushing purposes only, and this is required by the first paragraph of the clause now under consideration. As regards the construction of service cisterns, the clause provides only in the most general way. It merely requires them to be of adequate capacity (a matter affecting the sufficiency of the flush), and to be so constructed, etc., as to make a complete break between the service pipes and the closet pan. Messrs. P. Gordon Smith and Keith D. Young, in an admirable article already referred to, state that, “in order to make the flush effectual, both as regards volume and force, it is requisite to fix the flushing cistern at least four or five feet above the

closet basin, and to provide a pipe from the cistern to the basin of at least one and a quarter inches diameter." (See "The Dwelling," in Drs. Stevenson and Murphy's "Treatise on Hygiene and Public Health.") The flush should in no case be less than two gallons; where possible, it should be three gallons. In a like general way, the second paragraph of clause 69 deals with the other parts of the apparatus necessary for the proper flushing of the pan. The construction of the pan itself is regulated by paragraph 3. Incidentally, it may be pointed out that no form of closet which is without proper flushing apparatus will satisfy the requirements of the byelaw. Mere hand flushing by means of buckets of water from time to time thrown down the closet will not suffice. Waterclosets without flushing apparatus may (if "insufficient" because wanting such apparatus) be dealt with under s. 36 of the Public Health Act, 1875. (See *Bogle v. Sherborne Local Board* (1880), 46 J. P. 675).

Shape of pan, basin, or receptacle of watercloset.—Beyond certain limits, it forms no part of the legitimate scope of these byelaws to determine the special fitness or otherwise of the various forms of closet pans from time to time introduced. It will be seen, however, that the combined effect of paragraphs 2 and 3 of clause 69 is to prohibit the construction of closets with pans of the old "*long hopper*" pattern (now almost, if not quite, obsolete). It is also questionable whether the "*wash-out*" type of closet altogether complies with the requirements of the clause. In this form of closet, the filth tends to become spread out over a comparatively flat bottom in a very shallow depth of water. Moreover, when the flush is released—even if sufficient to clear the pan—the feces are broken up and dashed with great force against the inner surface of the front of the pan, and this not only increases the effluvia in connection with the use of the closet, but causes the passage between the pan proper and the trap to become fouled and give off noxious exhalations, which readily pass into the house. The older *pan closet* is prohibited by the fourth paragraph of the byelaw, as it necessitates the use of a "container." The objection both to the container and to the "D" trap is that neither is in the remotest degree self-cleansing in any proper sense of the term, and that in course of time the accumulation of filth in places where the flush cannot reach it is so great as to constitute a direct danger to health whenever the handle is pulled. If any part of the apparatus becomes unsound the danger is incalculably increased. Happily, at the present day, it is unnecessary to emphasise the defects of these forms of apparatus.

"Slop closets" and "trough closets."—Two forms of watercloset—the slop closet and the trough closet—which are not specifically referred to in the model byelaws, need passing mention, in connection with a report presented to the Local Government Board in the year 1891, by Dr. Parsons, now assistant medical officer of that Board. ["Slop closets and Trough closets," being a report by H. F. Parsons, M.D. (London: Eyre & Spottiswoode, 1892).] A slop closet is defined by Dr. Parsons to be one from which the excrement is intended to be washed away into the drain by means of the slops or refuse liquids of the household, instead of by clean water supplied for the purpose; while trough closets are so constructed that the excreta from a range of closets placed side by side fall into a trough which is partly filled with water, and from which they are usually discharged by means of a flush applied at one end of the trough. The slop closet, with

“automatic” flushing apparatus, was considered by Dr. Parsons to be well adapted for cottages with separate closet accommodation, in places where the charge for water was high; and the troughcloset for schools, mills, and other places where closets are used in common by large numbers of people. Neither of these closets is suitable for indoor use; but if constructed with suitable apparatus for flushing, some forms of them would seem to comply with the requirements of clause 69 of these byelaws. Where, however, it is desired to prescribe more detailed requirements with regard to the construction of slop waterclosets, the following clause may be considered. Its adoption would make it necessary to limit the operation of model clause 69 to waterclosets other than slop waterclosets.

Construction
of slop water-
closets.

Every person who shall construct in connection with a building a watercloset of the kind known as a slop watercloset, shall so construct such closet that it shall not be entered otherwise than from the external air.

He shall furnish such watercloset with a pan, basin or other suitable receptacle of non-absorbent material, and of such shape, of such capacity, and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited in such pan, basin or receptacle, to fall free of the sides thereof, or of any shaft leading thereto, and directly into the water received and contained in such pan, basin or receptacle.

He shall construct or fix under such pan, basin or receptacle a suitable trap.

He shall furnish such watercloset with a proper tipper or flushing tank of glazed stoneware, or other suitable smooth and impervious material, of a capacity not less than *three gallons*, and so constructed as when full to discharge the whole of its contents by automatic action into the pan, basin or other receptacle with which such closet may be provided for the effectual flushing and cleansing of such pan, basin or other receptacle, and for the prompt and effectual removal therefrom, and from the trap beneath the same, of any solid or liquid filth which may from time to time be deposited therein.

He shall cause such watercloset to be so constructed and so connected with proper waste-water and surface-water drains, that the waste water from such building and so far as practicable the surface water from the yard and any surplus water from the roof of such building and from the roof of any other building within the same curtilage may be conveyed into such tipper or flushing tank.

Provided that a single tipper or flushing tank may be constructed so as to serve for two waterclosets of the kind known as slop waterclosets, which immediately adjoin one another, and are in connection with one and the same building, but in such case such tipper or flushing tank shall have a capacity of not less than *five gallons*.

Keeping of waterclosets supplied with sufficient water for flushing.—Byelaws with respect to waterclosets under s. 157 (4) of the Public Health Act, 1875, cannot directly provide as to the keeping of the closets supplied with sufficient water for flushing. They can, as in clause 69 of the present series, require the provision of the necessary apparatus; but, under the general law, the supply of water for flushing purposes can only be dealt with specifically by means of a byelaw, under s. 23 (1) or (3) of the Public Health Acts Amendment Act, 1890. In this respect the two sections are complementary, the one of the other. As regards the byelaws authorised by the Act of 1890, see notes on pp. 42 and 155.

Construction of earthclosets and privies should be regulated.—The construction of earthclosets and privies forms the subject of clauses 70 to 80 of the model series. The fact that the Public Health Acts recognise properly constructed earthclosets and privies as sufficient forms of privy accommodation, and that, except under circumstances such as are provided for by s. 36 of the Public Health Act, 1875, the local authority are not empowered to require the provision of waterclosets to the exclusion of other forms of privy construction, has been dealt with elsewhere. (See p. 138, *ante*.) In connection with this subject, it should be pointed out that the omission of clauses 70 to 80 would not prevent the construction of earthclosets and privies: it would merely leave their construction unregulated. The clauses in question should accordingly find a place in any series of byelaws made under s. 157 of the Public Health Act, 1875, unless a satisfactory series dealing with the subject is already in force, or the matter is regulated by the provisions of a local Act. In connection with the following clauses reference may be made to the notes on Series I. ("Cleaving of earthclosets, privies," etc.) in "Model Byelaws," pp. 17 to 26.

70. Every person who shall construct an earthcloset in connection with a building shall furnish such earthcloset with a reservoir, of suitable construction and of adequate capacity, for dry earth or other deodorising substance, and he shall construct and fix such reservoir in such a manner and in such a position as to admit of ready access to such reservoir for the purpose of depositing therein the necessary supply of dry earth or other deodorising substance.

Apparatus of
earthclosets.

He shall construct or fix in connection with such reservoir suitable means or apparatus for the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited

in any pan, pit, or other receptacle for filth constructed, fitted, or used in or in connection with such earthcloset.

Apparatus of earthclosets.—Clause 70 of the model byelaws requires that every newly-erected earthcloset shall be furnished with a reservoir for dry earth or other deodorising substance, and with suitable means or apparatus (which should, if possible, be automatic) for the application of the deodorant to the filth from time to time deposited in the earthcloset.

Earthcloset
with fixed
receptacle.

71. Every person who shall construct an earthcloset in connection with a building and shall provide in or in connection with such earthcloset a fixed receptacle for filth, shall construct such earthcloset outside such building, and shall construct or fix the receptacle of such earthcloset in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle, and in such a manner and in such a position as to admit of ready access to such receptacle for the purpose of removing the contents thereof.

He shall not construct such receptacle of a capacity greater than may be sufficient to contain such filth and dry earth or other deodorising substance as may be deposited therein during a period not exceeding *three months*, or in any case of a capacity exceeding *forty cubic feet*.

He shall construct such receptacle of such material or materials, and in such a manner, as to prevent any absorption by any part of such receptacle of any filth deposited therein, or any escape, by leakage or otherwise, of any part of the contents of such receptacle.

He shall construct or fix such receptacle so that the bottom or floor thereof shall be at least *three inches* above the level of the surface of the ground immediately adjoining the earthcloset, and so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse.

Earthclosets with fixed receptacles.—The present clause deals with the construction of fixed earthcloset receptacles, the object being to prevent the retention of filth for too long a period in the immediate neighbourhood of buildings, and to ensure that the contents of the closet shall be kept dry during the period of retention. It is essential that this dryness should be maintained; for the mixture of earth and excrement in the receptacle when fresh will, if exposed to wet, enter into ordinary decomposition, and become foetid. (Sir George Buchanan, M.D., F.R.S., late medical officer of the Local Government Board, in a report of an official inquiry made by him in 1869). Suitable means of access are necessary for the proper cleansing of the

receptacle. The process is facilitated by having the bottom or floor above the level of the surface of the ground. It will be seen that the revised clauses as to earthclosets in this series prohibit the construction of closets with fixed receptacles for filth otherwise than out-of-doors. (See Plate XVII., Fig. 36.)

72. Every person who shall construct an earthcloset in connection with but not within a building, and shall provide in or in connection with such earthcloset a movable receptacle for filth, shall construct such earthcloset so that the position and mode of fitting of such receptacle may admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle, and may also admit of ready access to that part of the earthcloset in which such receptacle may be placed or fitted, and of the convenient removal of such receptacle or of the contents thereof.

Earthcloset
with movable
receptacle
outside
building,

He shall also construct such earthcloset so that the contents of such receptacle may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse.

Earthclosets with movable receptacles.—The movable receptacle must as regards the frequent application of earth, and the preservation of the dryness of contents, be treated in like manner as a “fixed receptacle.” Access to the receptacle should be given by making the seat and riser of the closet removable (as shown in Plate XVII., Fig. 37, Appendix), or by placing a suitable door in one of the sides of the space beneath the seat.

73. Every person who shall construct an earthcloset within a building shall construct such earthcloset for use in combination with a movable receptacle for filth.

Earthcloset
within
building.

He shall construct such earthcloset so as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath the seat in such a manner and in such a position as may effectually prevent the deposit upon the floor or sides of the space beneath such seat, or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct such receptacle in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of dry earth or other deodorising substance to any filth which may from time to time be deposited in such receptacle, and in such a manner and

in such a position as to admit of ready access for the purpose of removing the contents thereof.

Indoor earthclosets.—As already pointed out, the present series of clauses prohibits the construction within a building of any earthcloset having a fixed receptacle for filth. Clause 73 differs from clause 72 (which regulates the construction of out-of-door earthclosets with movable receptacles) chiefly in providing that the movable receptacle of an indoor earthcloset shall be of such limited size as to practically necessitate a weekly cleansing, and that it shall be so placed in position as to effectually catch all droppings falling through the seat.

Prohibition of indoor earthclosets.—If it is desired to entirely prohibit the construction of earthclosets within a building, the following clause may be suggested :—

Indoor
earthclosets
prohibited.

Every person who shall construct an earthcloset in connection with a building, shall construct such earthcloset outside such building.*

Position of
privy in
relation to
buildings ;

74. Every person who shall construct a privy in connection with a building shall construct such privy at a distance of *feet* at the least from a dwelling-house or public building, or any building in which any person may be or may be intended to be employed in any manufacture, trade, or business.

in relation
to sources
of water
supply ; and

75. A person who shall construct a privy in connection with a building shall not construct such privy within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

for purposes
of cleansing.

76. Every person who shall construct a privy in connection with a building shall construct such privy in such a manner and in such a position as to afford ready means of access to such privy, for the purpose of cleansing such privy and of removing filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such privy, and from the premises to which such privy may belong, without being carried through any dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

Necessity for regulating construction of privies.—In all ordinary cases, clauses 74 to 80 should on no account be omitted from the series when

* See note, p. 138, as to consequential alterations in the series necessary if this clause is adopted.

adopted by a local authority. The effect of doing so has already been pointed out. (See note, p. 143.)

Position of privy.—A privy, even when constructed in accordance with the model byelaws, should be placed as far as practicable from any building in which human beings spend much of their time, or in which at times a number of persons may be assembled in a confined atmosphere. In clause 74 any distance that can reasonably be enforced in the district, having regard to the extent of open space usually provided in connection with buildings, may be inserted by the local authority. But *six feet* may be regarded as the minimum distance approved by the Local Government Board. No privy should be allowed to be newly erected within *forty feet* of any well or running water; for although s. 47 (3) of the Public Health Act, 1875, renders liable to penalties any person who in any urban district (or in any rural district where the section has been put in force by an order of the Local Government Board) allows the contents of any privy to overflow or soak therefrom, and although the risk of soakage from a privy is reduced to a minimum where the privy is constructed in accordance with these byelaws, yet too great precaution can hardly be taken to prevent the pollution of water supplies. The water in any cistern which may be in the immediate neighbourhood of a privy is liable to contamination by noxious emanations from the filth therein, but the prohibition of the construction of a privy within a given distance of a water cistern would not prevent the placing of a cistern within that distance of a privy after the privy was completed. If, however, special danger to health be apprehended from the use of underground tanks, the words "underground tank" might be inserted in clause 75 after the word "spring." Clause 76, in effect, prohibits the construction of a privy in connection with any building unless there is a side passage or back street by means of which the filth from time to time removed from the privy can be taken away without bringing it through the building. This is a requirement of great sanitary importance in relation to the prevention of nuisance.

77. Every person who shall construct a privy in connection with a building shall provide such privy with a sufficient opening for ventilation, as near to the top as practicable, and communicating directly with the external air. Ventilation
of privies.

He shall cause the floor of such privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than *six inches* above the level of the surface of the ground adjoining such privy, and so that such floor shall have a fall or inclination towards the door of such privy of *half an inch* to the *foot*. Floors of
privies.

Construction of privies.—The necessity of proper ventilation, urgent as it is in connection with any form of sanitary convenience, becomes greatest in relation to closets of the privy kind. "The floor," which should in every part be above the level of the ground, "should be of impervious material, and . . . should slope somewhat towards the door." (See Report of

Mr. J. Netton Radcliffe, late medical inspector of the Local Government Board, "On certain means of preventing excrement nuisances in towns and villages," 1875.) The construction of the seat and of the chamber beneath the seat is dealt with in the next three clauses of the model series.

Privies with
movable
receptacles.

78. Every person who shall construct a privy in connection with a building, and shall construct such privy for use in combination with a movable receptacle for filth, shall construct over the whole area of the space immediately beneath the seat of such privy a flagged or asphalted floor, at a height of not less than *three inches* above the level of the surface of the ground adjoining such privy; and he shall cause the whole extent of the containing walls of such space between the floor and the seat, except such opening as may be necessary for the purpose of affording access to such space, to be constructed of flagging, slate, or good brickwork, at least *nine inches* thick, and rendered in good cement or asphalted.

He shall construct the seat of such privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the deposit upon the floor or sides of the space beneath such seat or elsewhere than in such receptacle of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct the seat of such privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath such seat for the purpose of cleansing such space, or of removing therefrom or placing and fitting therein the appropriate receptacle for filth, or shall otherwise provide adequate means of access to such space for the purpose aforesaid.

Privies
with fixed
receptacles.

79. Every person who shall construct a privy in connection with a building, and shall construct such privy for use in combination with a fixed receptacle for filth, shall construct or fix in or in connection with such privy suitable means or apparatus for the frequent and effectual application of ashes, dust, or dry refuse to any filth which may from time to time be deposited in such receptacle.

He shall construct such receptacle so that the contents thereof may not at any time be exposed to any rainfall or the drainage of any waste water or liquid refuse.

He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein or any escape, by leakage or otherwise, of any part of the contents of such receptacle.

He shall construct such receptacle so that the bottom or floor thereof shall be in every part at least *three inches* above the level of the surface of the ground adjoining such receptacle.

He shall not in any case construct such receptacle of a capacity exceeding *eight cubic feet*.

He shall construct the seat of such privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to such receptacle for the purpose of removing the contents thereof, and of cleansing such receptacle, or shall otherwise provide in or in connection with such privy adequate means of access to such receptacle for the purpose aforesaid.

Construction of privy chambers.—The construction of the floors of privies and the provision of means of ventilation having been dealt with by clause 77, clauses 78 and 79 proceed to regulate the construction of the chamber in which the excreta are received, either in a pail or other “movable receptacle,” or on the bottom of the chamber itself. In a closet of either type the bottom and sides of the chamber should, as far as possible, be impervious.

In the case of a privy with a *movable receptacle*, where it is intended to give access to the chamber by lifting up the seat, all four sides of the chamber can and should be thus constructed; but it is sometimes convenient to provide for the construction of a door in one side of the chamber, so that the privy pail can be removed and replaced from outside. Two slight modifications have been made in the model clause in order to enable this arrangement to be adopted. (See latter part of first and third paragraphs.) In any case, the bottom of the chamber should be slightly above the surface of the ground, and the space under the seat should be no greater than is necessary to permit of a privy pail just large enough for the probable needs of the household during a period of *one week*, being placed beneath the aperture. Unlike privies with movable receptacles, those with *fixed receptacles* are designed to receive ashes and other dry refuse, as well as excreta. But here, again, the provision should be sufficient only for one week's accumulation. It is of the utmost importance that the space for the mingled ashes and excrement should not be exposed to rainfall, surface drainage, or the soakage of subsoil water, and that the materials of which the bottom and sides are constructed should, as far as possible, be non-absorbent. The provisions of the model bylaws, if duly enforced, will effectually secure this.

80. A person who shall construct a privy in connection with a building shall not cause or suffer any part of the space under

Communica-
tion of privy
with drain
prohibited.

the seat of such privy, or any part of any receptacle for filth in or in connection with such privy to communicate with any drain.

Drainage of privy prohibited.—Drainage of the privy receptacle, or of the space for its reception, would be a provision for a state of things which it is the object of the model byelaws to prevent, viz., a wet, sloppy state of the contents. The existence of such provision, indeed, might almost seem to invite the throwing of house slops, etc., into the receptacle, and such objectionable practices should be discouraged in every possible way. The chief evil to be anticipated, however, is the blocking of the drains with solid matters carried into them from the privy. Speaking generally, it might be said that if provision for drainage is possible there is no reason why a water-closet should not be provided instead of a privy.

Construction of ashpits.—In connection with clauses 81 to 86, the provisions of Series I. ("Cleansing of earthclosets . . . ashpits," etc.), and notes of the Editors thereon, may be referred to. (See "Model Byelaws," pp. 17 to 26.)

Position of
ashpit in
relation to
buildings ;

81. Every person who shall construct an ashpit in connection with a building shall construct such ashpit at a distance of *feet* at the least from a dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

in relation
to sources
of water
supply ; and

82. A person who shall construct an ashpit in connection with a building shall not construct such ashpit within the distance of . *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

for purposes
of cleansing.

83. Every person who shall construct an ashpit in connection with a building shall construct such ashpit in such a manner and in such a position as to afford ready means of access to such ashpit for the purpose of cleansing such ashpit, and of removing the contents thereof, and, so far as may be practicable, in such a manner and in such a position as to admit of the contents of such ashpit being removed therefrom, and from the premises to which such ashpit may belong, without being carried through any dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

What is an ashpit.—Section 11 (1) of the Public Health Acts Amendment Act, 1890, provides that the expression "ashpit" in the Public Health Acts,

shall, for the purpose of the execution of those Acts, include any ashtub or other receptacle for the deposit of ashes, faecal matter, or refuse. It will be seen that the model byelaws 81 to 86 of the present series apply only to persons "constructing" ashpits. The provision of a galvanised iron or other movable receptacle for ashes and dry refuse ("ashbins") could scarcely be considered as the construction of an ashpit; but under the heading "With respect to . . . ashpits . . . in connection with buildings," it would seem that the local authority could make byelaws regulating the capacity of such ashbins, the material of which they are to be constructed, etc., and requiring ashpit accommodation to be provided in certain cases in this form, instead of in the form of a built-up ashpit. They could not, probably, by any general prohibition, express or implied, wholly prevent the construction of ashpits with fixed receptacles in any case. A byelaw regulating the construction of movable ashpits will be found on p. 152.

Position of ashpit.—As the ashpit so often contains quantities of vegetable and other matters in process of decomposition, it should be at least *six feet* from any dwelling-house or other building such as is mentioned in clause 81. Some increase of this distance might well be proposed. No ashpit should be within *thirty feet* of any well, spring, stream, or cistern from which water is likely to be taken for drinking or domestic purposes; otherwise the effluvia from the ashpit, or the dust produced by sifting cinders thereat, may cause pollution of the water. The words "underground tank" might be inserted in clause 82, after the word "spring." The difficulty as regards water tanks and cisterns generally, however, has been indicated in connection with the model clause 75. As to the means of access to ashpits for the purpose of cleansing, it will be noticed that the words "so far as may be practicable" which are inserted in clause 83, do not appear in clause 76. Without these words, however, the byelaw now under consideration might be held to be unreasonable, as applying to all ashpits, including those used only for ashes, dust, and dry refuse. Where the ashpit was connected with a privy, clause 76 would, as regards new erections, secure the provision of means of access for the removal of the contents without carrying them through any dwelling-house, etc. With regard to the regulation of "position" in the case of a movable ashpit, see note on p. 35, *ante*.

84. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of a capacity not exceeding in any case *six cubic feet*. Capacity of ashpits.

Capacity of ashpits.—The limit of capacity imposed by this byelaw is intended to practically enforce a weekly cleansing of ashpits. (See Series I. ("Cleansing of earthclosets . . . ashpits," etc. and notes thereon in "Model Byelaws," pp. 17 to 26.)

85. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of flagging, or of slate, or of good brickwork, at least *nine inches* thick, and rendered inside with good cement or properly asphalted. Construction of ashpit.

He shall construct such ashpit so that the floor thereof shall be at a height of not less than *three inches* above the surface of

the ground adjoining such ashpit, and he shall cause such floor to be properly flagged or asphalted.

He shall cause such ashpit to be properly roofed over and ventilated, and to be furnished with a suitable door in such a position and so constructed and fitted as to admit of the convenient removal of the contents of such ashpit, and to admit of being securely closed and fastened for the effectual prevention of the escape of any of the contents of such ashpit.

Construction of ashpits.—The points to be observed in the construction of ashpits do not materially differ from those which should be provided for in connection with fixed privy receptacles. The main consideration is that the contents shall be kept dry, so as to retard decomposition of organic substances as much as possible, while retained upon the premises.

Communica-
tion of
ashpit with
drain pro-
hibited.

86. A person who shall construct an ashpit in connection with a building shall not cause or suffer any part of such ashpit to communicate with any drain.

Drainage of ashpits.—See note to clause 80, *ante*, p. 150.

Movable ashpits.—Where the local authority wish to regulate the construction, etc., of movable ashpits (see note, p. 151), the following clause is suggested by the Local Government Board in the model series as revised by them :—

Construction
of movable
ashpits.

87. A person shall not provide in connection with a building any movable ashpit unless such ashpit be constructed of galvanised iron or other suitable impervious material of a sufficient strength and thickness and be otherwise such as to satisfy the requirements of the following rules :—

(a) Such ashpit shall be provided with suitable handles and a properly fitting cover.

(b) Such ashpit shall be of a capacity not exceeding *six cubic feet*.

Construction of cesspools.—In connection with the clauses following, attention may be directed to Series I. ("Cleansing of earthclosets . . . cesspools," etc.,) and notes thereon in "Model Byelaws," pp. 17 to 26.

Position of
cesspool in
relation to
buildings ;

88. Every person who shall construct a cesspool in connection with a building shall construct such cesspool at a distance of *feet* at the least from a dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business.

89. A person who shall construct a cesspool in connection with a building shall not construct such cesspool within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution. in relation to sources of water supply; and

90. Every person who shall construct a cesspool in connection with a building shall construct such cesspool in such a manner and in such a position as to afford ready means of access to such cesspool for the purpose of cleansing such cesspool, and of removing the contents thereof, and in such a manner and in such a position as to admit of the contents of such cesspool being removed therefrom, and from the premises to which such cesspool may belong, without being carried through any dwelling-house or public building, or any building in which any person may be, or may be intended to be employed in any manufacture, trade, or business. for purposes of cleansing.

He shall not in any case construct such cesspool so that it shall have, by drain or otherwise, any outlet into or means of communication with any sewer. Cesspool not to be connected with sewer.

Position of cesspool.—A cesspool under a house is, in effect, prohibited as regards new houses by ss. 23 and 35 of the Public Health Act, 1875. But such a receptacle should not be placed within *fifty feet* at the least from any of such buildings as are mentioned in clause 88. In *Simmons v. Malling Rural District Council*, [1897] 2 Q. B. 433; 61 J. P. 502; 66 L. J. Q. B. 585; 77 L. T. 341; 43 W. R. 603; 13 T. L. R. 447, a byelaw in the terms of the model clause, and prescribing that distance, was held reasonable. From *sixty feet* to *eighty feet* ought to be regarded as the minimum distance which should be interposed between a cesspool and any well, spring, stream, or cistern from which water is likely to be taken for drinking or domestic purposes, in order to prevent the pollution of the water. As regards cisterns, the principal danger, when the cistern is, as it always should be, above ground, is that the water may become contaminated by foul air escaping from the cesspool; and probably the only reason why cisterns are not referred to in the byelaw is that there are no means of preventing the construction or fixing of a cistern within any given distance from a cesspool after the cesspool itself has been completed. But as regards wells and running water, the danger of the percolation of foul liquids through the soil in case of defect in the cesspool has to be guarded against, and the importance of this cannot be overrated. Underground tanks might also be protected by a modification of clause 89 similar to that suggested in connection with clauses 75 and 82, *ante*. It is, of course, extremely difficult to detect a leakage from a cesspool, although s. 47 (3) of the Public Health Act, 1875, renders liable to penalties any person who, in any urban district (and in any rural district where the section has been put in force by an order of the Local Government

Board), allows the contents of any cesspool to overflow or soak therefrom. The defect is only too likely to continue until the occurrence of illness (perhaps in an epidemic form) causes special investigation to be made. The danger of percolation is also the main reason for the requirement in clause 88; but, apart from this, it is necessary that the cesspool should be at a sufficient distance from dwelling-houses, etc., to enable it to be ventilated without risk of nuisance. The requirements of clause 90 are similar to those prescribed by clauses 76 and 80 as regards privies. Where a cesspool can be drained there can be no sufficient reason for the cesspool. The connection of a series of cesspools together is not a communication of a cesspool with a sewer under the above model byelaw (*Button v. Tottenham Urban District Council* (1899), 78 L. T. (N.S.) 470; 63 J. P. 423).

Construction
of cesspool.

91. Every person who shall construct a cesspool in connection with a building shall construct such cesspool of good brickwork in cement properly rendered inside with cement, and with a backing of at least *nine inches* of well puddled clay or of at least *six inches* of good cement concrete, around and beneath such brickwork, or shall otherwise construct such cesspool of suitable material, and so as to be impervious to liquid.

He shall also cause such cesspool to be arched or otherwise properly covered over, and to be provided with adequate means of ventilation.

Construction of cesspools.—After what has been stated in connection with clauses 88 to 90, the requirements of the first part of this clause will not be considered unnecessarily stringent, the object being to secure the construction of the receptacle in such a manner as to prevent the pollution of the subsoil and of underground water supplies. The backing of clay puddle or concrete, in the case of a brick cesspool, is necessary to prevent soakage into the cesspool when the liquid therein is at a lower level than the ground water, and it is also a support to the brickwork, which, when the cesspool is full, is subject to a great “thrust.” As regards the latter part, proper means of ventilation are necessary in order to prevent foul air finding a passage through some fissure in the soil, or through the house drains, instead of directly into the open air, where by diffusion it may be rendered harmless.

Capacity of cesspools.—It will be seen that the model clauses as to cesspools do not, like those relating to other receptacles for filth (*e.g.*, clauses 71 and 79), limit the size of the receptacle. For various reasons it would be found difficult to do this. But the model clauses at least avoid the serious mistake of prescribing a *minimum* size for cesspools.

Application
of byelaws as
to water-
closets, earth-
closets, etc.

92. The foregoing byelaws with respect to waterclosets, earthclosets, privies, ashpits and cesspools, shall apply to waterclosets, earthclosets, privies, ashpits and cesspools, in connection with buildings erected either before or after the times mentioned in section 157 of the Public Health Act, 1875.

Application of the byelaws as to waterclosets, etc., in connection with buildings.—Without the addition of this clause, the byelaws as to waterclosets, earthclosets, privies, ashpits, and cesspools, which are contained in the model series, would apply only to waterclosets, etc., in connection with buildings erected after the times mentioned in s. 157 of the Public Health Act, 1875. Where, however, Part III. of the Public Health Acts Amendment Act, 1890 (s. 23 (2)) is not in force, the local authority have no power, under the general law, to make a byelaw in terms of clause 92. (See note on p. 138, *ante*.) In any case, clauses 67 to 91 of the model series can only apply where a watercloset, etc., is newly erected in connection with a building. They have no application to waterclosets, etc., already existing in connection with any building.

Byelaws as to keeping waterclosets supplied with water.—Where the local authority have power under s. 23 (1) of the Public Health Acts Amendment Act, 1890, to make byelaws on this subject, such byelaws may be inserted, under a separate heading, between clauses 92 and 93 of this series. (For a form of byelaw, see *post*, p. 218.)

With respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

93. In every case:—

Where, by a notice in writing in the form hereunto appended, or to the like effect, and signed by the clerk to the council, and duly served upon or delivered to the owner of a building or part of a building erected after the* the council shall certify that it has been represented to them that such building or part of a building is unfit for human habitation, and that, unless on or before such day as shall be specified in such notice, such owner, by a statement in writing under his hand or under the hand of his agent duly authorised in that behalf, and addressed to and duly served upon or delivered to the council, shall show sufficient cause why such building or part of a building shall not be declared unfit for human habitation, or unless, on such day and at such time and place as shall be specified in such notice, such owner personally or by his agent duly authorised in that behalf shall attend before the council and show sufficient cause why such building or part of a building shall not be declared unfit for human habitation, the council will declare such building or part of a building unfit for human habitation, and direct that such building or part of a building shall be closed, and prohibit the use for human habitation of such building or part of a building until the same shall have been rendered fit for human habitation :

Closing of
buildings.

* Insert here either the words "date on which the Local Government Acts came into force in the district," or the words "date of the confirmation of these byelaws."

And where such owner shall fail to show sufficient cause why such building or part of a building shall not be declared unfit for human habitation, and where, in consequence of such failure, the council by their order, which shall be in writing under their seal in the form hereunto appended, or to the like effect, and shall be duly signed by their clerk, and which, or a copy of which, shall be affixed in some conspicuous position in or upon such building or part of a building, may declare that such building or part of a building is unfit for human habitation, and may direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited:—

A person shall not, after the date specified in such order and before such building or part of a building shall have been rendered fit for human habitation, knowingly inhabit or continue to inhabit, or knowingly cause or suffer to be inhabited such building or part of a building.

FORM OF NOTICE.

Borough or Urban or Rural District of

To of ,

WHEREAS by a statement in writing under the hand of Medical Officer of Health (*or Surveyor*) of the* , of which statement a copy is contained in the schedule hereunto annexed, it has been certified to the said Council that a certain building or part of a building situate at in the said district is unfit for human habitation;

And whereas it has been shown to the said Council that you are the owner of such building or part of a building ;

Now, I , clerk to the said Council, do hereby give you notice that, unless on or before the day of 19 , by a statement in writing under your hand or under the hand of an agent duly authorised by you in that behalf, and addressed to and duly served upon or delivered to the said Council, you shall show to the said Council sufficient cause why such building or part of a building shall not be declared unfit for human habitation ;

Or, unless you shall attend either personally or by an agent duly authorised in that behalf before the said Council at their office in on day the day of 19 , at o'clock in the noon and shall then and there show to the said Council

* “ Council of the borough of ” ; *or* “ Urban ” *or* “ Rural District Council of ” ; *as the case may be.*

sufficient cause why such building or part of a building shall not be declared unfit for human habitation ;

The said Council, in pursuance of the powers conferred upon them in that behalf, will, by an order in writing under their seal, declare that such building or part of a building is unfit for human habitation, and direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited.

Witness my hand this day of in the year one thousand nine hundred .

Town Clerk (or Clerk to the Council).

SCHEDULE.

Copy of Certificate of .

FORM OF ORDER.

Borough or Urban or Rural District of

To , of , and to all others whom it may concern :

WHEREAS it has been certified to us, the* , that a certain building or part of a building situate at in the said district is unfit for human habitation ;

And whereas due notice of such certificate has been given to , the owner of such building or part of a building, and the said has failed to show sufficient cause why such building or part of a building shall not be declared unfit for human habitation ;

Now we, the said Council, in pursuance of the powers conferred upon us in that behalf, do hereby declare that such building or part of a building is unfit for human habitation ; and we do hereby direct that, unless and until such building or part of a building shall have been rendered fit for human habitation, the same shall be closed, and the use thereof for human habitation shall be prohibited.

Given under the common seal of the ^{Council}
Corporation this

(L.S.) day of , in the year one thousand nine hundred .

Town Clerk (or Clerk to the Council).

Buildings unfit for habitation.—A byelaw with respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation, is expressly authorised by the terms of s. 157 (4) of the Public Health Act, 1875. The model clause enables the district council to serve notice on the owner of any building or part of a building represented to them to be unfit for human habitation, informing him

* Insert as in note, *ante*, p. 156.

that, unless he shows cause to the contrary, they will close the building, or such part as may be in question, and prohibit the further use of it for human habitation until it has been rendered fit for occupation. A form of notice is attached. It contains a schedule in which a copy of the certificate on which the council have taken action will be served with the notice upon the owner. The clause also prescribes a form of order for closing the building, or part of a building, if the owner fails to show sufficient cause against this being done. If such an order is made, a copy of it should be affixed conspicuously upon the building or part of a building; and the last paragraph of the clause will then prevent the occupation, as well as the letting, of the premises for human habitation until it has been rendered fit for occupation.

Scope of the model byelaw.—A byelaw under s. 157 (4) of the Public Health Act, 1875, with regard to the closing of buildings which are unfit for habitation, can only be made to affect buildings erected after the times mentioned in the proviso to that section. (See the note on pp. 43, 44.)

Notice.—A printed signature of the clerk to the local authority to notices under the Public Health Act, 1875, is sufficient within the meaning of s. 266 of the Act (*Brydges v. Dix* (1891), 7 T. L. R. 215).

Procedure under byelaw, alternative.—Although a byelaw as to the closing of buildings which are unfit for habitation is clearly authorised by the statute, and there would seem to be a distinct advantage in including such a byelaw in any series made under s. 157 with respect to buildings, there are other means of closing buildings against habitation, both under the Public Health Act, 1875, itself, and under Part II. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70). Under s. 97 of the former Act, where a nuisance has been proved to exist, and the nuisance is such as to render any house or building (whether erected before or after the times mentioned in s. 157), in the judgment of a court of summary jurisdiction, unfit for human habitation, the court may prohibit the using thereof for that purpose, until, in its judgment, the house or building is rendered fit for habitation; and under s. 32 of the Act of 1890, proceedings may be taken by the local authority against the owner or occupier for closing any dwelling-house in their district which appears to them to be in a state so dangerous or injurious to health as to be unfit for human habitation. The Third Schedule to the Act applies for the purpose of such proceedings ss. 91, 94, 95 and 97 of the Public Health Act, 1875; so that an order of a court of summary jurisdiction must be obtained in order to close a building under this Act, although, since the passing of the Housing of the Working Classes Act, 1903, a closing order may be obtained without first serving notice to abate the nuisance in cases such as are provided for by s. 8 of that Act. In proceedings under the model byelaw, however, no order of a court is required in cases to which the byelaw applies.

As to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, and as to inspection by the council.

Notice of
intention to
lay out new
street.

94. Every person who shall intend to lay out a street shall give to the council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same

time deliver or send, or cause to be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, a plan and sections of such intended street, drawn to a scale of not less than *one inch* to every *forty-four feet*.

Such person shall show on every such plan the names of the owners of the land through or over which such street shall be intended to pass, the intended level and width, the points of the compass, the intended mode of construction, the intended name of such street, and its intended position in relation to the streets nearest thereto, the size and number of the intended building lots, and the intended sites, height, class, and nature of the buildings to be erected therein, and the intended height of the division and fence walls thereon, and the name and address of the person intending to lay out such street.

Plans and sections to accompany notice.

Such person shall sign such plan, or cause the same to be signed by his duly authorised agent.

Such person shall show on every such section the levels of the present surface of the ground above some known datum, the intended level and rate or rates of inclination of the intended street, the level and inclinations of the streets with which it is intended that such street shall be connected, and the intended level of the lowest floors of the intended buildings.

Places under local Acts.—Where s. 57 *et seq.* of the Towns Improvement Clauses Act, 1847, apply by virtue of the provisions of any local Act, clause 94 should be omitted.

Notices of intention to lay out streets or erect buildings.—There would appear to be no authority for a byelaw requiring that notice shall be given and plans be deposited not less than a specified time before one of the ordinary meetings of the local authority.

In *Hattersley v. Burr* (1866), 4 H. & C. 523; 14 L. T. (N.S.) 565, a byelaw requiring a month's notice to be given at one of the monthly meetings of the board, was held to be unreasonable and bad, the reason for this, apparently, being that the court thought that the requirement of one month's notice to be given to the surveyor at one of the monthly meetings, which might operate so that nearly two months might elapse without the intending builder being able to do anything, was unreasonable. (See *per* LUSH, J., in *Hall v. Nixon* (1875), L. R. 10 Q. B. at p. 160.) But in the last mentioned case, which is reported at L. R. 10 Q. B. 152; 39 J. P. 341; 44 L. J. M. C. 51; 32 L. T. (N.S.) 87; 23 W. R. 612, a byelaw requiring fourteen days' notice, with deposit of plans, before beginning to build, was held by the Queen's Bench to be reasonable and valid.

Service of notice.—By s. 267 of the Public Health Act, 1875, "notices, orders, and any other documents required or authorised to be served under this Act, may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the

owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises ; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

“Any notice by this Act required to be given to the owner or occupier of any premises may be addressed by the description of the ‘owner’ or ‘occupier’ of the premises (naming them) in respect of which the notice is given, without further name or description.”

Where, however, the name of the owner or occupier can be ascertained with certainty, it will be the better plan not to rely on the permission given in the last paragraph of this section.

A summons may be served in the manner provided by this section (*R. v. Mead*, [1894] 2 Q. B. 124 ; 63 L. J. M. C. 128 ; 70 L. T. (N.S.) 766 ; 42 W. R. 442 ; 58 J. P. 448 ; 10 T. L. R. 413, and *Woodford Urban District Council v. Henwood* (1900), 64 J. P. 148).

Service on a reputed owner in occupation of the premises is not sufficient (*Wirral Rural District Council v. Carter* (1903), 1 K. B. 646 ; 72 L. J. K. B. 332 ; 89 L. T. 171 ; 51 W. R. 414 ; 67 J. P. 31 ; L. G. R. 206). *Semble per* CHANNELL, J., a copy of the notice addressed and sent to the “owner” of the premises without naming him, at the premises, is effective service upon the owner under the Act. *Ibid.*

Where service is by post the prepayment of the letter must be proved in order to render the service valid (*Walthamstow Urban District Council v. Henwood* (1897), 1 Ch. 41 ; 66 L. J. Ch. 31 ; 75 L. T. (N.S.) 375 ; 45 W. R. 124 ; 61 J. P. 23).

Where the name and address of the owner of a strip of land was unknown to the clerk who had charge of the service of notices (although known to the surveyor of the local authority), it was held that a notice to “the owner” of the strip posted on a conspicuous part of the strip was properly served (*Sharpley v. Bear* (1903), 67 J. P. 442).

In *Mason v. Bibby* (1864), 33 L. J. M. C. 105 ; 2 H. & C. 881 ; 9 L. T. (N.S.) 692 ; 12 W. R. 382 ; 10 Jur. (N.S.) 519 ; 28 J. P. 121, where the Public Health Act, 1848 (11 & 12 Vict. c. 63), s. 150, provided that in all cases in which any notice was required to be given to the owner or occupier of any premises, it should be sufficient to address the notice to him by the description of the “owner” or “occupier” of the premises, and that the notice should be served either personally or by delivering the same to some inmate of the owner or occupier’s place of abode, it was held that service of a notice by delivering it to the clerk of an owner at his place of business was sufficient, s. 150 being in aid of service of notices : MARTIN, B., observing that a place of business was a place of abode, and a clerk an inmate under the section. In *Newport (Mayor, etc.) v. Levy* (1893), 57 J. P. 199, it was held that a demand of a rate under the Public Health Act, 1875, was sufficiently served by being delivered at the ratepayer’s chief place of business, though it was not part of the premises rated and the notice was not proved to be served personally on the ratepayer.

Duty of local authority as regards approval or disapproval of plans.
—The local authority must either approve or disapprove of the plans on

their merits, and are not warranted in inquiring into the title of the intending builder (*Ex parte Crosby* (1877), 41 J. P. 740), but they will be justified in inquiring whether what the builder proposes is practicable. See *Thompson v. Failsworth Local Board*, *post*, p. 163. They should take care lest the proposed building should not infringe the building line, that is sect. 3 of the Public Health (Buildings in Streets) Act, 1888, as their approval of the plans might be deemed a written consent within that section (*Merrett v. Charlton Kings Urban District Council* (1903), 67 J. P. 419).

The local authority are not entitled to object to plans unless they infringe some byelaw or statute (*R. v. Tynemouth Rural District Council*, (1896) 2 Q. B. 451; 60 J. P. 804; 65 L. J. Q. B. 545; 75 L. T. 86; 12 T. L. R. 536). In this case the respondents had refused to approve certain plans for laying out a building estate upon the grounds that the plans did not show that the house drains ended in any sewers, nor any street or outfall sewers, and the building owner refused to construct an outfall sewer at his own expense. The Court of Appeal held, affirming the judgment of the Queen's Bench Division, that the local authority were not entitled to attach such a condition to their approval. The local authority cannot refuse to approve of building plans because they object to the site (*R. v. Preston (Corporation of)* (1887), 3 T. L. R. 665), nor on the ground that the class of building proposed to be erected would, in their opinion, be injurious to the character of the neighbourhood as a place of residence, and would depreciate the value of other buildings and property in the neighbourhood (*R. v. Mayor of Newcastle-upon-Tyne* (1889), 53 J. P. 788; 60 L. T. (N.S.) 963; 5 T. L. R. 467).

Conditional approval of plans.—The only way by which a local authority can enforce a condition that a building shall be removed within a fixed time where their approval of plans is subject to such a condition, is by taking a bond with sureties for the due performance of the condition. (See *per LUSH, J.*, in *Parsons v. Timewell* (1879), 44 J. P. 296.) One L., who was desirous of converting his dwelling-house into a lock-up shop and warehouse, applied to the local authority for permission, which was granted on condition that if again used as a dwelling-house the building should be altered so as to leave an open space at the back. The premises were bought by the respondent in 1878, and he knew nothing of the condition. In 1883 it was let for five years, and was latterly used as a restaurant. The respondent was convicted under a local Act for unlawfully permitting the building to be used as a dwelling-house, and the conviction was upheld on appeal (*West Hartlepool Commissioners v. Levy* (1886), 50 J. P. 196).

Remedy in case of unwarranted refusal to approve.—If the local authority refuse to approve plans which are in accordance with the byelaws submitted to them, the proper remedy for the person submitting the plans is to apply for a prerogative writ of *mandamus* (*Smith v. Chorley District Council*, C. A., [1897] 1 Q. B. 678; 61 J. P. 340; 66 L. J. Q. B. 427; 76 L. T. 637; 13 T. L. R. 327; 45 W. R. 417), or to go on with his building.

Power to proceed with work without approval of plans.—Assuming that notice of intention to build has been duly given, and plans have been deposited, there is nothing to prevent the builder at once beginning to build without waiting for his plans to be approved, but he will do so at his peril in the event of the building not being in conformity with the byelaws. Section 158 of the Public Health Act, 1875, requires the local authority to signify their approval or disapproval within one month; “and if the work

is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any byelaw of the urban authority, the urban authority may cause so much of the work as has been executed to be pulled down or removed." It will thus be seen that the section does not apply unless the building which has been erected without the approval of the local authority to the plans is not in conformity with some byelaw.

The local authority are bound to approve or disapprove of plans submitted to them within a month, and if they fail to do so it would appear that they cannot afterwards object to the building according to the plan (*Masters v. Pontypool Local Board* (1878), 9 Ch. D. 677; 47 L. J. Ch. 797), and they are precluded from recovering any penalty (*Clark v. Bloomfield* (1885), 1 T. L. R. 323; cf. also *Slee v. Bradford Corporation* (1863), 4 Giff. 262; 27 J. P. 612; 8 L. T. (N.S.) 491; 9 Jur. (N.S.) 815; *Cumber v. Bournemouth Improvement Commissioners* (1881), 71 L. T. Journ. 10).

The stamping by the local authority on the plans of words signifying their approval has been held to amount to a "written consent" on the part of the local authority within the meaning of the Public Health (Buildings in Streets) Act, 1888 (*Mullis v. Hubbard* (1903), 2 Ch. 431; 72 L. J. Ch. 593; 88 L. T. (N.S.) 661; 51 W. R. 571; 67 J. P. 281; 1 L. G. R. 769, and *Merrett v. Charlton Kings Urban District Council* (1903), 67 J. P. 419).

Effect of not adhering to plans as approved.—If the person intending to lay out a new street substantially departs from the plan which has been deposited and approved without having sent in fresh plans, he renders himself liable to a penalty under the byelaws. (Cf. *James v. Masters* (1893), 1 Q. B. 355, and *Fulford v. Blatchford* (1899), 80 L. T. (N.S.) 19; *Cox v. C. C.* 308.)

Power of district council to retain plans.—A byelaw by which the district council would take power to retain plans and sections submitted to them under this or the succeeding clause, would probably not be confirmed by the Local Government Board. The decision in the case of *Gooding v. Ealing Local Board* (1883), 1 T. L. R. 62; 1 C. & E. 359, would seem to show that under certain circumstances a district council might retain the plans of proposed streets or buildings; but a byelaw purporting to reserve any such power would seem to go beyond the terms of s. 157 of the Public Health Act, 1875. The byelaws, however, might require plans and sections to be deposited in duplicate. In *Ballymena Commissioners v. McKay* (1886), Ir. Rep. 17 Ch. D. 605, a byelaw requiring every person who shall intend to erect a building, or to rebuild any existing house, to give notice in writing of such intention, accompanied by a plan in duplicate, was held to be reasonable and *intra vires*. If plans in duplicate were required, the district council would, probably, experience no difficulty in securing that the duplicates were permanently left with them. All that is necessary is that the words "in duplicate" should be inserted in the byelaws 94 and 95, after the word "drawn" in the first paragraph of each clause.

Power to withdraw approval of plans.—It occasionally happens that plans of new streets or buildings are approved by the local authority, and a very long time elapses after such approval is given without any attempt being made to carry out the plans. There would seem to be no authority under which (under the general law) a local authority could expressly limit the period within which their approval of plans shall be operative. In *Slee*

v. *Corporation of Bradford*, *ubi supra*, the Court of Chancery restrained the defendants by injunction from interfering with the erection of a factory according to the approved plans. See, however, the note on clause 103, p. 172.

Before approving plans the local authority should satisfy themselves that the intending builder has power to carry out what is required by the byelaws. If they neglect to do this, they cannot afterwards proceed for a penalty for a breach of them. Thus, in *Thompson v. Failsworth Local Board* (1882), 46 J. P. 21, the appellant deposited a plan of proposed buildings and showing a new street ten yards wide. The board sanctioned the houses, and they were built, and some years afterwards he was summoned for disobeying the byelaw by not leaving space ten yards wide for a street. The appellant's land, in fact, only extended nine feet in front of the houses, but this was not known to the board at the time. The justices convicted the appellant, but the Queen's Bench Division quashed the conviction on the ground that the local board ought to have seen beforehand that what the defendant proposed was practicable.

Additional byelaw.—See clause 20, p. 221.

95. Every person who shall intend to erect a building shall give to the council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same time deliver or send, or cause to be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, complete plans and sections of every floor of such intended building, which shall be drawn to a scale of not less than *one inch* to every *eight feet*, and shall show the position, form, and dimensions of the several parts of such building, and of every watercloset, earthcloset, privy, ashpit, cesspool, well, and all other appurtenances, and in which the building shall be so described as to show whether it is intended to be used as a dwelling-house or otherwise.

Notice of intention to erect a building.

Plans and sections to accompany notice.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the council at his or their office, or to their surveyor at his or their office, a description in writing of the materials of which it is intended that such building shall be constructed, and of the intended mode of drainage and means of water supply.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the council at his or their office, or to their surveyor at his or their office, a block plan of such building which shall be drawn to a scale of not less than *one inch* to every *forty-four feet*, and shall show the position of the buildings and appurtenances of the properties immediately adjoining, the width and level of the street in front, and of the

street, if any, at the rear of such building, the level of the lowest floor of such building, and of any yard or open space belonging thereto.

Such person shall likewise show on such plan the intended lines of drainage of such building, and the intended size, depth, and inclination of each drain ; and the details of the arrangement proposed to be adopted for the ventilation of the drains.

Scope of clause 95.—Clause 95 only applies to persons “intending to erect buildings” ; but as to the circumstances which will bring any intended works within the operation of the clause, the case of *James v. Wygill* (1884), 51 L. T. (N.S.) 237 ; 48 J. P. 228, *n.*, 725, may be referred to. In that case the appellant, in enlarging a public-house, built partly on an old garden wall, and erected some additional rooms, which he connected with the public-house. He gave no notice to the local authority of the intended building, as he did not think it was a “new building.” The magistrate convicted and imposed a penalty, and also a penalty for every day the building should remain. Held, by the Queen’s Bench Division, affirming the conviction, that it was a question of fact for the magistrate whether the alterations amounted to a new building, and that he had found as a fact that they did, and, further, that the penalty was payable in addition to the penalty per day, although the information against the appellant was only for not having given notice of intention to build accompanied by plans.

In *Slee v. Corporation of Bradford* (1863), 4 Giff. 262 ; 27 J. P. 612 ; 8 L. T. (N.S.) 491 ; 9 Jur. (N.S.) 815, a byelaw requiring that plans of new buildings should also show the position of such buildings with reference to existing buildings, was held by the Court of Chancery to be valid.

The notes on clause 94 should be referred to.

It was held in *Uckfield Rural District Council v. Crowborough Water Company* (1899), 2 Q. B. 664 ; 68 L. J. Q. B. 1009 ; 81 L. T. (N.S.) 839 ; 48 W. R. 63, that a water company constructing a water tower in pursuance of their powers under a special Act incorporating the Waterworks Clauses Act, 1847, s. 93, were bound to comply with the byelaw similar to the above made by the local authority under the Public Health Act, 1875, s. 157. The incorporated enactment provides that nothing therein or in the special Act contained shall be deemed to exempt the undertakers “from any act for improving the sanitary condition of towns and populous places which may be passed in the same session of Parliament in which the special Act is passed, or any future session of Parliament.”

“Elevations” of buildings.—The local authority cannot, by means of a byelaw under s. 157 of the Public Health Act, 1875, require “elevations” of intended new buildings to be submitted. The section referred to only mentions “plans and sections.”

Notice before
commencing
new street,
new building,
etc., and

96. Every person who shall intend to lay out or construct a street, or to erect a building, or otherwise to execute any work to which any of the byelaws relating to new streets and buildings may apply, shall before beginning to lay out or construct such street, or to erect such building, or to execute such work, deliver or send, or cause to be delivered or sent to the surveyor

of the council at his or their office notice in writing, in which shall be specified the date on which such person will begin to lay out or construct such street, or to erect such building, or to execute such work.

Such person shall also, before proceeding to cover up any sewer or drain, or any foundation of a building, deliver or send, or cause to be delivered or sent to the surveyor of the council at his or their office notice in writing, in which shall be specified the date on which such person will proceed to cover up such sewer, drain, or foundation.

before
covering up
sewer, drain,
or foundation.

If such person neglect or refuse to deliver or send any such notice, or to cause any such notice to be delivered or sent to such surveyor, and if such surveyor, on inspecting any work in connection with such street or building, or such other work as aforesaid, finds that such work is so far advanced that he cannot ascertain whether anything required by any byelaw relating to new streets or buildings has been done contrary to such byelaw, or whether anything required by such byelaw to be done has been omitted to be done, and if, within a reasonable time after such survey or inspection, such person shall, by notice in writing under the hand of such surveyor, be required, within a reasonable time which shall be specified in such notice, to cause so much of such work as prevents such surveyor from ascertaining whether anything has been done or omitted to be done as aforesaid, such person shall within the time specified in such notice cause such work to be so cut into, laid open, or pulled down.

Failing
notice, work
may be cut
into, laid
open, or
pulled down.

Effect of clause 96.—Clauses 94 and 95 require that notice of intention to lay out a street or erect a building shall be sent to the local authority accompanied by plans and sections and such information as will enable the authority to give due consideration to the plans. Section 158 of the Public Health Act, 1875, gives them one month in which to express approval or disapproval of the intended work. There is nothing to prevent the work being proceeded with at once without waiting for the decision of the authority, although, if this course is taken, the person executing the work does so at his own risk. But in any case, if the work is to be properly supervised, they will require to know when it is to be commenced, and, in regard to what may be termed underground work, to be in a position to have it inspected before it is covered up. This is secured by the first two paragraphs of the present clause, and the third paragraph gives them most effectual control in the matter by enabling the surveyor, if it be necessary and if due notice has not been given, to order the work to be uncovered or pulled down to a sufficient extent for him to ascertain that nothing has been done, or omitted to be done, contrary to the byelaws. This power, however, is one which should be exercised with some caution. It will be noticed, that although for reasons stated at p. 53, the construction of *sewers* is not regulated by the model byelaws, the local authority will, under this clause, receive notice which will make it possible to ensure inspection of any sewer that may be put in by a person laying out a

new street. In the case of *Hall v. Nixon* (1875), L. R. 10 Q. B. 152 ; 32 L. T. (N.S.) 87, *fourteen days'* notice to the surveyor before beginning to build was held reasonable.

Buildings of water company.—See note, p. 164.

Notice of
contravention
of byelaw.

97. In every case :—

Where a person who shall lay out or construct a street, or shall erect a building, or shall execute any other work to which the byelaws relating to new streets and buildings may apply, shall, at any reasonable time during the progress, or after the completion of the laying out or construction of such street, or the erection of such building, or the execution of such work, receive from the surveyor of the council notice in writing specifying any matters in respect of which the laying out or construction of such street, the erection of such building, or the execution of such work may be in contravention of any byelaw relating to new streets or buildings, and requiring such person within a reasonable time, which shall be specified in such notice, to cause anything done contrary to any such byelaw to be amended, or to do anything which by any such byelaw may be required to be done but which has been omitted to be done :—

Such person shall, within the time specified in such notice, comply with the several requirements thereof so far as such requirements relate to matters in respect of which the laying out or construction of such street, the erection of such building, or the execution of such work may be in contravention of any such byelaw.

Notice of
compliance
with require-
ments of
council.

Such person, within a reasonable time after the completion of any work which may have been executed in accordance with any such requirement, shall deliver or send, or cause to be delivered or sent, to the surveyor of the council at his or their office notice in writing of the completion of such work, and shall, at all reasonable times within a period of *seven days* after such notice shall have been so delivered or sent, afford such surveyor free access to such work for the purpose of inspection.

Surveyor to
have access
to the work.

Notices in case of contravention of byelaws.—This clause enables the local authority, through their surveyor, to require work done contrary to the byelaws to be put right. *Seven days* should be a sufficient period to enable the work done according to the surveyor's requirements to be inspected by him ; and it would be unreasonable to keep the work open longer than was necessary. Where the requirements of the local authority are not complied with, the provisions of clause 102 will be applicable.

Byelaw 53 of a certain series related to open space in connection with new buildings, and byelaw 96 related to the contents of plans to be deposited ; and the surveyor served the following notice : “ I am directed by this council

to draw your attention to the fact that a wooden erection has been made in the backyard of your property, situate at No. 20, Avondal Terrace, Chester-le-Street, contrary to Nos. 53 and 96 of the byelaws relating to new streets and buildings in force in this district, and you are hereby requested to cause the erection above referred to to be removed within 21 days from this date. I would further respectfully remind you that you are required by law to let me have a notice in writing if the work referred to is completed." It was objected that the notice was insufficient; but the High Court held it sufficient, and that it complied with the terms of a byelaw similar to byelaw 97, *supra* (*Dickenson v. Forsyth* (1904), 67 J. P. 170).

98. Every person who shall lay out or construct a street, or shall erect a building, or shall execute any other work to which any of the byelaws relating to new streets and buildings shall apply, shall, at all reasonable times, during the laying out or construction of such street, or the erection of such building, or the execution of such work, afford the surveyor of the council free access to such street, building, or work for the purpose of inspection.

Surveyor to have access to works during progress.

Works in progress.—To ensure compliance with the byelaws all work to which they apply should be properly inspected from time to time as it proceeds, and to a great extent the usefulness of the preceding clause depends on this. See also clauses 99 and 100.

99. Every person who shall lay out or construct a street shall, within a reasonable time after the completion of the laying out or construction of such street, deliver or send, or cause to be delivered or sent to the surveyor of the council, at his or their office, notice in writing of the completion of the laying out or construction of such street, and shall, at all reasonable times, within a period of *seven days* after such notice shall have been so delivered or sent, afford such surveyor free access to such street for the purpose of inspection.

Notice of completion of street.

Surveyor to have access to the work.

100. Every person who shall erect a building shall, within a reasonable time after the completion of the erection of such building, deliver or send, or cause to be delivered or sent, to the surveyor of the council, at his or their office, notice in writing of the completion of the erection of such building, and shall, at all reasonable times, within a period of *seven days* after such notice shall have been so delivered or sent, and before such building shall be occupied, afford such surveyor free access to every part of such building for the purpose of inspection.

Notice of completion of building.

Surveyor to have access to building.

Inspection after completion of works.—The time during which the surveyor is to have access to a new street or building, after its completion, should not be longer than is reasonably necessary to admit of a final inspection being made by him. As a rule, *seven days* should be sufficient for this

purpose. In connection with the above two clauses, see clauses 97 and 102. The power conferred by the byelaw last mentioned will not, of course, be resorted to, except where the alternative method provided for by clause 97 fails. The notes on clause 102 should be carefully considered before any action is taken under it. Where the surveyor proceeds under clause 97, access for purposes of inspection after defects have been remedied will be obtained under the last paragraph of that clause, even though the time prescribed by clause 99 or clause 100 may have expired.

Byelaws as to the alteration of buildings.—Where the local authority have power to make byelaws as to the alteration of buildings under s. 23 (4) of the Public Health Acts Amendment Act, 1890, such byelaws may be inserted, under appropriate headings, before the clause numbered 101 of this series. Clause 102 will then require some slight modification. (See note on that clause.) For forms of byelaws under s. 23 (4) of the Act of 1890, suggested by the Editors, see pp. 221 to 224, *post*.

Certificate of fitness of house for occupation.—The following clause, although not included in the model series as published, has frequently been allowed by the Local Government Board. It was formerly known as “model clause 95a.” In support of the byelaw, see *Horsell v. Swindon Local Board* (1888), 52 J. P. 597; 58 L. T. 732, in which it was held that a similar byelaw made under s. 32 of the Local Government Act, 1858 (21 & 22 Vict. c. 98), was reasonable in itself, and, moreover, was not inconsistent with s. 157 of the Public Health Act, 1875. CAVE, J., said it was “a very fit and proper provision for the local board to make, in order to provide against houses being inhabited which were unfit for habitation.”

Certificate of
sanitary
officer before
occupation.

A person shall not let or occupy any new dwelling-house until the drainage thereof shall have been made and completed, nor until such dwelling-house shall, after examination, have been certified by an officer of the council, authorised to give such certificate, to be, in his opinion, in every respect fit for human habitation.

In *Southend (Mayor of) v. Ramuz*, Times, 6th August, 1895, it was held that a byelaw providing that if any part of a building is occupied before the time limited, the building as a whole, or the remaining parts of it, shall never be occupied in any way, or at any time thereafter, or even during the continuance of the first improper occupation, would be invalid.

Penalties.

Penalties.

101. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing offence to a further penalty of *forty shillings* for each day after written notice of the offence from the council.

Provided, nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the

payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Amount of penalties.—The district council may be recommended, in the case of this important series, to provide for the imposition, where necessary, of the maximum penalties authorised by s. 183 of the Public Health Act, 1875, viz., *five pounds, and forty shillings*. The second paragraph of the clause provides for cases where the circumstances do not call for the maximum penalties, and must be retained even if sums less than five pounds and forty shillings are inserted, as the section mentioned expressly provides that all byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of such penalty. In spite of the powers given by the Summary Jurisdiction Act, 1879, s. 16, to the court to discharge without punishment or to inflict only a nominal penalty when the offence is trifling (cf. *Salt v. Scott-Hall* (1903), 2 K. B. 245; 72 L. J. K. B. 627; 67 J. P. 306; 52 W. R. 95; 88 L. T. 868; 19 T. L. R. 518; *Pomeroy v. Malvern Urban District Council*, (1903) 89 L. T. (N.S.) 555; 67 J. P. 375; 1 L. G. R. 825), the proviso remains necessary to enable those cases to be dealt with adequately in which the offence, though not trifling, does not deserve the full penalty.

A person who erects a new building in contravention of a byelaw cannot be convicted of a continuing offence under s. 158 of the Public Health Act, 1875, consisting in the continued existence of the building in such a form or state as to be in contravention of the byelaw, unless he retains such control over the building as renders him in fact responsible for the continued existence of the building in that state (*Pomeroy v. Malvern Urban District Council*, *supra*).

It was held in *Blackpool Corporation v. Johnson* (1902), 1 K. B. 646; 71 L. J. K. B. 485; 87 L. T. 28; 20 Cox C. C. 276, that a purchaser of a building erected in contravention of s. 3 of the Public Health (Buildings in Streets) Act, 1888, who allowed it to remain in the same state after written notice from the urban authority, was not a "person offending against the enactment," and could not be convicted of allowing the offence to continue. (See also *Welch v. Mayor, etc., of West Ham* (1900), 1 Q. B. 324; 69 L. J. Q. B. 114; 82 L. T. 262.)

The owner of a building estate deposited a specimen plan in accordance with the byelaws of a certain type of houses intended to be erected. Subsequently he was summoned for deviating from such plan in regard to one of the houses in four respects. The JJ. dismissed the summons on the ground that they were not substantial deviations from the deposited plan. Afterwards the respondent was summoned for deviation from the deposited specimen plan in regard to two other houses in the same row, on the ground as found by the JJ. of similar deviations. The JJ. dismissed the summons on the ground that the matter was *res judicata*. It was held that the JJ. were bound to hear the summons on its merits, and that the matter was not *res judicata* (*Bulby with Hesthorpe District Council v. Millard* (1904), 68 J. P. 81).

As to the power of the council to remove, alter, or pull down any work begun or done in contravention of the byelaws.

102. If any work to which any of the foregoing byelaws may apply be begun or done in contravention of any such byelaw, the

Removal,
alteration

or pulling
down of
work in con-
travention
of byelaws.

person by whom such work shall be so begun or done, by a notice in writing, which shall be signed by the clerk to the council, and shall be duly served upon or delivered to such person, shall be required on or before such day as shall be specified in such notice by a statement in writing under his hand or under the hand of an agent duly authorised in that behalf, and addressed to and duly served upon the council, to show sufficient cause why such work shall not be removed, altered, or pulled down; or shall be required on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised in that behalf before the council and show sufficient cause why such work shall not be removed, altered, or pulled down.

If such person shall fail to show sufficient cause why such work shall not be removed, altered, or pulled down, the council shall be empowered, subject to any statutory provision in that behalf, to remove, alter, or pull down such work.

Removal of works made contrary to byelaws.—Where byelaws as to the alteration of buildings are inserted (see note on p. 168), this clause should be omitted and the clause (28) suggested by the Editors, p. 225, *post*, substituted. (See note on the latter clause.) The power to remove, alter, or pull down any work begun or done in contravention of byelaws under s. 157 of the Public Health Act, 1875, is by that section made subject to the provisions of the Act. (See s. 158.) Paragraph 2 of clause 102 is framed accordingly.

In *Southend (Mayor of) v. Ramuz*, Times, August 6th, 1895, which was an action brought to obtain an injunction to restrain the defendant from permitting premises erected by him to be occupied until they had been completed according to the byelaws, the defendant had complied with the byelaws by providing a sufficient air-space in the rear of each building. He, however, let the rooms in the buildings separately to be used as lock-up shops, and these shops were cut off from access to the air-space. ROMER, J., dismissed the action on the ground that the buildings had in fact, been completed according to the approved plans, and if there was any subsequent infringement of the byelaws by the defendant, the plaintiffs had their remedy under the byelaws.

The power to remove, alter, or pull down work is obviously one to be applied with caution, and it is only reasonable that before it is exercised the person affected should have an opportunity of being heard. The decisions of the courts, indeed, constitute this a condition precedent to the exercise of the power. Thus, in *Hopkins v. Smethwick Local Board* (1890), 24 Q. B. D. 712; 59 L. J. Q. B. 250; 62 L. T. (N.S.) 783; 54 J. P. 693; 38 W. R. 499; 6 T. L. R. 286, Lord Esher, M.R., said, in the Court of Appeal, "the power which the local board exercised to enter on the property of the plaintiffs and pull down the buildings they had erected is a highly penal one. Those who exercise such a power are bound to act strictly within it . . . it would be contrary to fundamental justice to allow that course to be taken without giving the owner notice and an opportunity to show cause." (See also *Cooper v. Wandsworth District Board of Works* (1864),

14 C. B. (N.S.) 180; 32 L. J. C. P. 185; 9 Jur. (N.S.) 1155; 8 L. T. (N.S.) 278; 11 W. R. 646, and *Masters v. Pontypool Local Board*, ante, p. 161. The decisions in both these cases were approved in *Hopkins v. Smethwick Local Board*, *ubi supra*; cf. *Attorney-General v. Hooper* (1893), 3 Ch. 483; 63 L. J. Ch. 18; 69 L. T. (N.S.) 340; 57 J. P. 564; 8 R. 535.)

Where a local authority are entitled to pull down a building erected in contravention of their byelaws, they may do so in any way most convenient to themselves, provided they do not do so in a manner that is dangerous (*Jagger v. Doncaster Rural Sanitary Authority* (1890), 54 J. P. 438). In this case there had been an excess in pulling down, but as the damage was inappreciable, the defendants were held not liable.

Where a byelaw provides for the pulling down of a new building erected in contravention of such byelaws, the local authority may cause a new building so erected to be pulled down, although no plans of such building have been deposited and the local authority have consequently not disapproved plans of the building (*Fairbrass v. Canterbury Corporation* (1903), 67 J. P. 181; 1 L. G. R. 181). The power of a local authority to pull down a new building under such a byelaw does not cease on the expiration of six months from the completion of the building. *Ibid.*

If the local authority have failed to signify their disapproval of the plans within one month from deposit they cannot afterwards pull down the building erected in accordance with them (*Clark v. Bloomfield*, ante, p. 162). But see following note.

Other remedies.—The observance of byelaws may also be enforced by means of an injunction (*Attorney-General v. Ashborne Recreation Company* (1903), 1 Ch. 101; 72 L. J. Ch. 67; 87 L. T. (N.S.) 561; 51 W. R. 125; 67 J. P. 73; 1 L. G. R. 146), provided that the Attorney-General is made a party (*Devonport Corporation v. Tozer* (1902), 2 Ch. 182, affirmed in C. A. (1903), 1 Ch. 759; 72 L. J. Ch. 411; 88 L. T. (N.S.) 113; 52 W. R. 6; 67 J. P. 269; 1 L. G. R. 421). This remedy may be of considerable importance in cases where, through oversight, a month has been allowed to elapse without notice of disapproval of proposed works being given, and the right to pull down and remove those works has consequently been lost.

*Repeal of byelaws.**

103. From and after the date of the confirmation of these byelaws, the byelaws relating to new streets and buildings which were made on the day of in the year one thousand hundred and by the and were confirmed on the day of in the year one thousand hundred and by [one of her late Majesty's Principal Secretaries of State] [the Local Government Board] shall be repealed, except as regards any work commenced before the date of the confirmation of this byelaw, or any work not so commenced, but of which plans shall either have been approved by the council before such date, or have been sent to the

Repeal

* If this clause is not included in the series submitted to the Local Government Board for approval, it should be stated whether or not there are any byelaws in force upon the subject.

surveyor or clerk to the council one month at least before such date, and shall not have been disapproved by the council.

Repeal of byelaws.—If there are in force in the district any byelaws as to new streets or buildings which the district council are desirous of repealing, the above clause should be completed and added to the series. The latter part of the clause will keep alive the repealed byelaws as regards work commenced or plans approved before the date of the confirmation of the byelaw. In an urban district the local authority had, in 1877, made byelaws for the regulation of new streets and new buildings, and M., an intending builder, had submitted plans under them which were approved. Some of the plans were carried into execution by M. In 1893 the existing byelaws were rescinded, and new ones, containing a proviso saving the validity of anything duly done or suffered under the old byelaws, were issued in their place. In 1896 M. intimated to the local authority that he intended to begin building some more houses in accordance with the plans approved under the old byelaws. The local authority sought an injunction in the County Palatine Court of Lancaster to restrain him from so doing. HALL, V.-C., dismissed the action on the ground that the plaintiffs were attempting to make a byelaw retrospective, which was not intended to be (*Withington Urban District Council v. Moore* (1896), 60 J. P. 408). By the adoption of clause 103 of the model series, however, any doubt as to the byelaws which will govern in a case where a building may be commenced or plans may be approved before the confirmation of new byelaws, will be obviated. The clause does not expressly declare the new byelaws to be wholly inapplicable in such a case; and probably the effect is merely to prevent their applying in any respect in which they may be inconsistent with the old byelaws. The provision that the old byelaws shall apply where plans have been sent in one month at least before the byelaws are confirmed, and have not been disapproved by the council, accords in principle with the enactment as to the approval of plans in s. 158 of the Public Health Act, 1875.

In *Harrogate Corporation v. Dickinson* (1903), 88 L. T. (N.S.) 299; 67 J. P. 100; 1 L. G. R. 275; affirmed in C. A. (1904), 1 K. B. 468; 68 J. P. 202, the defendants had deposited two plans, showing eleven houses and two stables and coachhouses, that it was proposed to erect. The deposit was made in 1894, and the plans were in that year approved by the local authority. A local Act provided that the deposit of plans should be null and void unless work was commenced within a certain period. In 1901, the existing byelaws were repealed and replaced by new byelaws, which contained a provision that the old byelaws were to continue to apply to work already commenced, and to work of which plans had been approved before the new byelaws came into force. Some of the buildings were erected within the period specified in the Act, and before the new byelaws came into operation. It was held that the plans were separate plans for the separate buildings, notwithstanding their being all included on the two sheets, and that therefore those buildings, the erection of which had not been commenced, did not come within the proviso of the byelaws as to “any work commenced before the date of confirmation,” and that the deposit of the plans with regard to such proposed buildings was null and void under the local Act.

In *White v. Mayor of Sunderland* (1903), 88 L. T. (N.S.) 592; 67 J. P. 199; 1 L. G. R. 483, a plan showing a number of houses that it was proposed to erect had been deposited and approved. After work had been commenced on the

sites of some of the proposed houses, the byelaws were replaced by new byelaws, which contained the provision that "From and after the confirmation of these byelaws, the following byelaws and parts of byelaws relating to new streets and buildings shall be repealed, except as regards any work commenced before the date of the confirmation of this byelaw." It was held that the approved plan was not merely one plan for the whole of the houses, but a number of separate plans for separate houses, and that if work had not been commenced on any particular house before the confirmation of the new byelaw, that house did not come within the exception provided by the byelaw, and the plan as regarded such house was null and void. It will be seen that the byelaw here in question was not the above model byelaw in its entirety.

NEW BUILDINGS, ETC., IN RURAL DISTRICTS.

MEMORANDUM

*of the Local Government Board as to Model Byelaws (Series IVa.)
with respect to new buildings and certain matters in connection
with buildings in rural districts.*

1. The authority to make byelaws for regulating new streets and buildings and matters connected therewith is conferred on urban district councils by section 157 of the Public Health Act, 1875, and section 23 of the Public Health Acts Amendment Act, 1890.

2. Rural district councils are not directly authorised to make such byelaws, but can obtain power to make some or all of them in the following ways:—

- (i.) A rural district council can, by adopting Part III. of the Act of 1890, acquire power to make byelaws upon the subject-matters referred to in paragraph 3 below ; or
- (ii.) A rural district council may make application to the Local Government Board to be invested with such of the powers conferred by the sections as they deem suitable to their district, or to any one or more contributory places within it. Such an application can be made whether the council have adopted Part III. of the Act of 1890 or not. [As to the mode of making such an application see the Introduction.]

3. The powers obtained under section 23 of the Act of 1890 where Part III. has been adopted, or where the provisions of that section have been put in force by an order of the Board, enable a rural district council to make byelaws on the following subjects:—

- (1) The structure of walls and foundations of new buildings for purposes of health ;
- (2) The sufficiency of space about buildings to secure a free circulation of air ;

- (3) The ventilation of buildings ;
- (4) The drainage of buildings ;
- (5) Waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings ;
- (6) The closing of buildings unfit for human habitation ;
- (7) The structure of floors ;*
- (8) The height of rooms to be used for human habitation ;*
- (9) The keeping of waterclosets supplied with sufficient water for flushing ;
- (10) The alteration of buildings :*
- (11) The observance and enforcement of such byelaws by requiring notices and plans.

4. It has been represented to the Board that it would be useful if a series of model byelaws were framed, dealing only with the subjects which are most in need of regulation and control in a rural district from a sanitary point of view, and omitting the additional requirements usually found in a code of byelaws in force in an urban district. The Board have, therefore, drawn up the accompanying series of model byelaws. They are confined to matters affecting health, and are limited to the subject-matters numbered (1) to (6), (9) and (11) in paragraph 3 above.*

The Board are not in a position to advise as to what byelaws are needed in particular rural districts. The responsibility rests with the rural district council in each instance of determining, on consideration of the circumstances of their district, what byelaws (if any) they will propose to make. The model is intended to serve as a guide to them in dealing with the most important sanitary requirements in connection with new buildings. It must not be regarded as excluding the adoption of further provisions, where these are found to be necessary, dealing with the other matters mentioned in section 23 of the Act of 1890, or in section 157 of the Act of 1875. Portions of many rural districts are distinctly urban in character, and the development of building is constantly changing the aspect of the country, and it devolves on rural district councils to endeavour to apply to the several parts of their districts such regulations as the circumstances may, from time to time, seem to require. The present series contains no clauses dealing with questions of stability or

* For model byelaws on the subject-matters numbered (7), (8) and (10), and some other matters, see the series suggested by the Editors of the present work, pp. 202 to 223, *post*.

the prevention of fire, or with the level, width, and construction of new streets. These are all matters that may properly be regulated in portions of rural districts which are assuming an urban character, and circumstances may arise which may render it necessary to deal with one or more of them even in less closely populated areas. Where more comprehensive byelaws are considered to be necessary for the whole or any part of the district, the rural district council may be referred to the model series prepared for use in urban districts.* They should carefully study the clauses and select those that are appropriate to the needs of the district, or the portion of it under consideration. In this connection it may be mentioned that a series of byelaws may be made for part only of a contributory place where the circumstances justify this course. The part should, however, be very clearly defined by a well-recognised boundary line.

5. [This sub-division of the memorandum contains observations on certain of the model clauses. So far as it is necessary to reproduce it, this has been done in the form of notes to the several clauses, *post*.]

6. [Sub-division 6 refers to the procedure to be observed in making byelaws. This portion of the Memorandum has been reproduced in the introduction. See pp. 7 and 8.]

7. [Sub-division 7 contains instructions to rural district councils desiring to obtain urban powers. These instructions also have been embodied in the Introduction.]

S. B. PROVIS,
Secretary.

Local Government Board,
June, 1901.

* See *ante*, pp. 39 to 173.

SERIES IV_A.—NEW BUILDINGS, ETC., IN RURAL DISTRICTS.

MODEL BYELAWS OF THE LOCAL GOVERNMENT BOARD, UNDER THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890, s. 23 (3).

[NOTE.—Any local authority proposing to make byelaws on this subject should apply to the Local Government Board for a form on which to submit a draft of the byelaws for the Board's preliminary approval.]

BYELAWS

MADE BY THE RURAL DISTRICT COUNCIL OF WITH RESPECT
TO NEW BUILDINGS AND CERTAIN MATTERS IN CONNECTION WITH
BUILDINGS IN* .

Interpretation of terms.

1. In the construction of these byelaws the following words and expressions shall have the meanings hereinafter respectively assigned to them, unless the context otherwise requires, that is to say:—

Interpreta-
tion of terms.

- “ District ” means
- “ Council ” means the Rural District Council of
- “ Public building ” means
- “ Building of the warehouse class ” means
- “ Domestic building ” means
- “ Dwelling-house ” means

Interpretation of terms.—The expressions mentioned are defined in this byelaw as in clause 1, pp. 55, 56.

Exempted buildings.

2. The following buildings shall be exempt from the operation of these byelaws:—

Exempted
buildings.

(a) [Crown property.]

* Insert “ the Rural District of ” : or, if the byelaws are to apply to part only of a rural district, “ that portion of the Rural District of which comprises the contributory places of ”

- (b) Any county or borough lunatic asylum, and any building belonging to the council of any county, city or borough, and used or intended to be used wholly or in part for the detention of any prisoners.
- (c) [Prisons, lock-ups, etc.]
- (d) [Canal, dock, etc., buildings, not being dwelling-houses.]
- (e) [Colliery, etc., buildings, not being dwelling-houses.]
- (f) Any building erected or intended to be erected according to plans previously approved by the Land Commissioners for England or the Board of Agriculture [or the Board of Agriculture and Fisheries] under the Improvement of Land Act, 1864, or other Act or Acts for the improvement of land.
- (g) [Buildings under the control of the Secretary of State.]
- (h) Any building which shall not be a public building or a building of the warehouse class, and shall not be constructed or adapted to be used either wholly or partly for human habitation, or as a place of habitual employment for any person in any manufacture, trade, or business, **and** which if intended for use as a pigsty or a cowhouse shall be detached from any dwelling-house.
- (i) [Temporary hospitals.]

Exempted buildings.—Exemptions (a), (c), (d), (e), (g) and (i) in this clause follow those provided for in clause 2, pp. 60—62. Exemptions (b) and (f) differ but slightly in form from sub-clauses (b) and (f) in the urban series. The Local Government Board direct special attention to exemption (h), which has been specially framed to meet the case of rural districts. The effect of it, they say, “is practically to exclude from the operation of the byelaws all buildings which are not dwelling-houses, or used wholly or partly for human habitation, or as a place for the habitual employment of any person. Thus the erection of buildings for agricultural purposes, and outbuildings such as a plant house, orchard house, summer house, poultry house, tool house, etc., is wholly unrestricted, except that they should not encroach on the open space required to be provided for new domestic buildings under the byelaws numbered 6 and 7. Pigsties and cowsheds are not exempt if not detached from a dwelling-house. The object of this is to discourage the placing of such structures in contact with a dwelling-house, as in such a position they must be regarded as a danger to health. Public buildings and warehouse buildings are not excluded, but there are very limited provisions in the model byelaws respecting such buildings” (Memorandum, June, 1901).

Scope of the model series with respect to new buildings, etc., in rural districts.—In connection with the following clauses, attention should be directed to the observations of the Local Government Board in the Memorandum prefixed to the series. (See pp. 174 to 176, *ante*.) The special object with which the series for rural districts has been framed is there described ;

but it should be pointed out that the series was published in the year 1901, and therefore does not include some of the amendments of the model byelaws issued in 1877 which appear in the later and more comprehensive series printed on pp. 55 to 173. In the "rural" series as printed below, some of those amendments are shown in brackets, thus []. In other cases it is not clear to what extent, if the rural series were re-issued immediately, it would be altered to follow the series issued during the present year (1904); and accordingly, in these cases, the byelaws have been printed as they appear in the official copies, notes of the principal variations being appended for the guidance of any rural district council proposing to adopt the special series.

With respect to the structure of walls and foundations of new buildings for purposes of health.

3. Every person who shall erect a new domestic building shall cause the whole ground surface or site of such building within the external walls to be properly asphalted or covered with a layer of good cement concrete, rammed solid, at least *six inches* thick, wherever the dampness of the site or the nature of the soil renders such a precaution necessary.

Asphalting or
concreting of
sites.

Asphalting or concreting of sites.—The corresponding byelaw in the urban series* omits the words "rammed solid," and the exception in favour of sites where asphalting or concreting may be unnecessary, and allows as a minimum "four inches" of cement concrete "if properly grouted." (See clause 11, p. 75.)

"Byelaw 3 is for the purpose of securing the dryness of the ground surface beneath the building, and preventing the entrance of damp exhalations or of impure ground air from made ground or soil charged with organic matter. It only applies where the dampness of the site or the nature of the soil renders such a precaution necessary; but in low-lying marshy districts it may be desirable to omit the limiting words. It is suggested that a clause similar to clause [10] in the [new] urban model [see p. 74], prohibiting the erecting of buildings on ground filled up with offensive matter, should be adopted in districts where s. 25 of the Public Health Acts Amendment Act, 1890, is not in force" (Memorandum of Local Government Board, June, 1901).

4. Every person who shall erect a new public building or a new dwelling-house shall cause every wall of such building to have a proper damp [proof] course of sheet lead, asphalte, or slates laid in cement, or of other [not less] durable material impervious to moisture, beneath the level of the lowest floor, and at a height of not less than *six inches* above the surface of the ground adjoining such wall.

Damp-proof
course.

* The expression "urban series" will be used in the notes on the present series of byelaws, as a convenient form of reference to the revised series recently issued by the Local Government Board (see pp. 55 to 173. *ante*), although that series is not necessarily inapplicable to a rural district requiring more exhaustive regulation than the present series provides, assuming that the council of such district possess the necessary powers.

Proviso
requiring
hollow walls
in basements.

Provided always that where any part of a floor of the lowest storey of such building, not being a cellar [adapted and intended to be used for storage purposes only], shall be intended to be below the level of the surface of the ground immediately adjoining the exterior of such storey, and so that the ground will be in contact with the exterior of any wall, he shall cause such storey or such part thereof as will be so in contact to be constructed with walls impervious to moisture or with [hollow] walls, having an intervening cavity between [the inner and outer parts of] such walls, of a width [not exceeding] *two and a half inches*, and extending from the base of such walls to a height of *six inches* above the surface of the ground immediately adjoining the exterior of such storey.

He shall cause [the inner and outer parts of such hollow] walls to be properly tied together with suitable and sufficient ties of iron, tarred and sanded, galvanised iron, vitrified stoneware, or other suitable material, inserted at distances apart not exceeding *three feet* horizontally and *eighteen inches* vertically. He shall also cause a proper damp [proof] course of sheet lead, asphalte, or slates laid in cement, or of other [not less] durable material impervious to moisture, to be inserted in every such [hollow] wall at the base of such wall and likewise at [a height of *six inches* above the surface of the ground immediately adjoining].

Prevention of damp in walls.—The words in brackets in the above clause as here printed are suggested by the amendments made by the Local Government Board in the urban series. (See clauses 14, p. 77, and 20, p. 85.)

“Byelaw 4 requires a damp course in every wall of a new public building, or of a building constructed for human habitation, and also requires a double wall to act as a vertical damp course where any part of the lowest storey of a building is below the surface of the ground” (Memorandum, June, 1901).

Walls to be
coped.

5. Every person who shall erect a new building shall cause every wall of such building, when carried up above any roof, flat, or gutter, so as to form a parapet, to be properly coped or otherwise protected, in order to prevent water from running down the sides of such parapet, or soaking into such wall.

Coping of walls.—See clause 29 in the urban series, p. 102.

“Byelaw 5 is intended to secure the exclusion of damp from a building by water soaking into the walls through parapets.

“Byelaws 4 and 5 are the only clauses proposed affecting the walls of buildings. In other respects as to size, material, position, strength, etc., the builder is entirely unfettered” (Memorandum, June, 1901).

Buildings with external walls of wood and other materials not “hard and incombustible.”—The present series contains no clauses on the subject of the “structure of walls . . . of new buildings for securing stability

and the prevention of fires.” The structure of walls is dealt with only “for purposes of health,” as the series is intended primarily for application to rural districts, the councils of which would not necessarily have obtained power to regulate the structure of walls in any other respect. Nevertheless, any suggestion as to the form of a byelaw permitting the erection of buildings such as are referred to in the heading to this note, would seem appropriate to be made in connection with this series, rather than the series (IV.) designed for more general use; because it is perfectly clear that it is only in the case of a district purely rural in character that the Local Government Board would entertain an application for the confirmation of so very special a byelaw. If any rural district council not already possessing power to regulate “for securing stability and the prevention of fires,” consider that such a byelaw is required by the circumstances of their district, they must apply to the Local Government Board for the additional urban powers necessary to enable them to proceed in the matter; and they should be prepared to show that they have sufficiently strong reasons for desiring to make such a byelaw. The clause printed below is given merely as a specimen of the kind of byelaw which the Local Government Board might be willing to consider, and not in any sense with the idea of recommending rural district councils generally to adopt byelaws of this character. It assumes that other byelaws relating to the “structure of walls” are already in force, or are being made at the same time.

(1.) Subject to the exceptions hereinafter provided, any *domestic building* such as is hereinafter described shall be exempt from the operation of the byelaws numbered respectively* , that is to say :—

“ Domestic buildings ” with walls not wholly constructed of hard and incombustible materials.

Any building comprising not more than one storey :

One-storey buildings.

(a) Each external wall of which, to a height of not less than *six inches* above the surface of the ground adjoining such wall, shall be constructed of good bricks, stone or other hard and suitable materials, at least nine inches thick, and properly bonded and solidly put together :—

(i.) With good mortar compounded of good lime and clean sharp sand, or other suitable material; or

(ii.) With good cement; or

(iii.) With good cement mixed with clean sharp sand ;

and provided with a proper damp-proof course of sheet lead, asphalte, or slates laid in cement, or of other not less durable material impervious to moisture, beneath the level of the lowest floor, and at a height of not less

* The blank should be filled. The clauses to be specified are those corresponding to clauses 14 to 35 (both inclusive) in the revised model series for general use. (See pp. 77 to 105, *ante*, and compare clause 3 of that series, p. 65.)

than *six inches* above the surface of the ground adjoining such wall; or

- (b) Each external wall of which shall be carried, at a height of not less than *six inches* above the surface of the ground adjoining such wall, upon sufficient piers constructed of good bricks, stone, or other hard and suitable materials similarly bonded and put together, and having proper footings resting on the solid ground, or on some other solid and sufficient foundation, and every such pier having also a proper damp-proof course of sheet lead, asphalte, or slates laid in cement, or of other not less durable material impervious to moisture beneath the level of the lowest floor of the building, and at a height of not less than *six inches* above the surface of the ground adjoining such wall;
- (c) The area covered by which shall not exceed in extent *nine hundred square feet*, or the capacity of which shall not exceed *nine thousand cubic feet*; and
- (d) The distance of which from the opposite side of the nearest street shall be not less than* feet, and the distance of which from the boundary of any adjoining lands or premises shall not be less than* feet.

Two-storey
buildings.

(2.) Any *domestic building* such as is hereinafter described shall be exempt as regards the upper storey from the operation of the byelaws numbered respectively* both inclusive, that is to say :—

Any building comprising not more than two storeys :

- (a) The area covered by which shall not exceed in extent *six hundred square feet*, or the capacity of which shall not exceed *twelve thousand cubic feet*; and
- (b) The distance of which from the opposite side of the nearest street shall be not less than* feet, and the distance of which from the boundary of any adjoining lands or premises shall not be less than* feet.

(3.) Provided—

- (i.) That where any building such as is hereinbefore described forms, or is intended to form, part of a block of new buildings which shall be intended for use as *dwelling-houses*, and shall not exceed two in number,

* These blanks also should be filled. The clauses to be specified in the third line of sub-clause 2 will be the same as those indicated in note * on the previous page.

the two buildings shall be separated by a party wall which shall, notwithstanding anything hereinbefore contained, be constructed in accordance with the requirements of the byelaws in that behalf :

- (ii.) That this byelaw shall not be deemed to apply to any building which forms, or is intended to form, part of a block of new buildings intended for use as *dwelling-houses* and exceeding two in number.

With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

6. Every person who shall erect a new domestic building shall provide in front of such building an open space, which, measured to the boundary of any lands or premises immediately opposite, or to the opposite side of any street which may not be less than *twenty-four feet* in width where such building may front thereon, shall, throughout the whole line of frontage of such building, extend to a distance of *twenty-four feet* at the least ; such distance being measured in every case at right angles to the external face of any wall of such building which shall front or abut on such open space.

Open space
in front of
domestic
buildings.

Where a new domestic building may be intended to front on a street laid out before the confirmation of these byelaws, and of a less width than *twenty-four feet*, the person who shall erect such building shall provide in front thereof an open space, which, measured to the opposite side of such street throughout the whole line of frontage of such building, shall extend to a distance equal at least to the width of such street, together with *one-half* of the difference between such width and *twenty-four feet*.

Any open space provided in pursuance of this byelaw shall be free from any erection thereon above the level of the ground, except any portico, porch, step, or other like projection from such building, or any gate, fence, or wall not exceeding *seven feet* in height.

A person who shall make any alteration in or addition to [any] building [or who shall erect any new building] shall not, by such alteration, addition, [or erection] diminish the extent of open space provided in pursuance of this byelaw in connection with [a] building, [or in any other respect fail to comply with any provision of this byelaw].

Open space in front of domestic buildings.—The words printed in brackets embody amendments made by the Local Government Board in

clause 52, p. 112, of the urban series. “Byelaws 6 and 7 deal with the provision of proper space to secure a free circulation of air. The Board regard it as most important that there should be secured for each new house both in front and at the back, an adequate amount of space for this purpose. The open space in front required by byelaw 6 may extend over the public highway, and the clause is framed to meet the case of houses being erected fronting to existing narrow roads. It provides in effect that where a house is erected fronting to an existing street less than twenty-four feet in width, it shall stand at a distance of not less than twelve feet from the centre line of the street, thus effecting an equitable adjustment between the owners of sites on the opposite sides of the street” (Memorandum, June, 1901).

Open space
in rear of
domestic
buildings.

7.—(1.) Every person who shall erect a new domestic building shall provide in the rear of such building an open space exclusively belonging to such building, and of an aggregate extent of not less than *one hundred and fifty square feet*, and free from any erection thereon above the level of the ground, except a watercloset, earthcloset, or privy, and an ashpit [constructed respectively in accordance with the byelaws in that behalf].

(2.) [In the case of a domestic building not being a building intended and adapted to be used exclusively as a stable], he shall cause such open space to extend throughout the entire width of such building, and he shall cause the distance across such open space from every part of such building to the boundary of any lands or premises immediately [in the rear of] the site of such building, to be *not less in any case than fifteen feet*.

If the height of such building be *twenty-five feet* he shall cause such distance to be *twenty feet* at the least.

If the height of such building be *thirty-five feet* or exceed *thirty-five feet* he shall cause such distance to be *twenty-five feet* at the least.

(3.) A person who shall make any alteration in or addition to [any] building [or who shall erect any new building], shall not, by such alteration, addition, [or erection,] diminish the extent of open space provided in pursuance of this byelaw in connection with [a] building, or in any other respect fail to comply with any provision of this byelaw.

(4.) For the purposes of this byelaw the height of such building shall be the height of the highest portion of the building, measured upwards from the level of the ground over which such open space shall extend to the level of half the vertical height of the roof or to the top of the parapet, whichever may be the higher.

Open space in rear of domestic buildings.—See clause 53 (p. 115) of the urban series. Some amendments embodied therein are shown by the words printed in brackets above. If sub-clause (2) is adopted in the altered form,

probably sub-clause (2) on p. 116 should be inserted between sub-clauses (2) and (3) here. Sub-clauses (3) and (4) should then be re-numbered.

“Byelaw 7 requires the provision at the rear of the house of an open space exclusively belonging thereto; this space, besides securing through ventilation, will serve as a yard in which the necessary sanitary conveniences may be placed at a proper distance from the house.

“In some places there may be exceptional circumstances which would render it unnecessary to require the provision of the amount of open space referred to—*e.g.*, the case of dwelling-houses abutting upon a park or other open space dedicated to the public. The Board have not provided for this either in the present model or in the urban model byelaws, but on being informed of the facts in cases of the kind or other cases of difficulty in a particular district, they would be prepared to consider additions to, or modifications of, the byelaw to meet the special circumstances” (Memorandum, June, 1901).

Ventilation of buildings.—“Byelaws 8—12 deal with the ventilation of buildings, and represent the minimum requirements which the Board are advised to be necessary. It will be seen that they do not impose any undue restrictions on the position or shape of windows or fireplaces. It is very desirable that some at least of the bedrooms in all houses shall be provided with fireplaces, but this object cannot be directly secured by byelaw” (Memorandum, June, 1901).

8. [*Windows to be provided.*—This byelaw follows clause 54 on p. 120.]

9. Every person who shall erect a new domestic building shall construct in every habitable room of such building one window, at the least, opening directly into the external air, and he shall cause the total area of such window, or, if there be more than one, of the several windows, clear of the sash frames, to be equal at the least to *one-tenth* of the floor area of such room.

Windows of habitable rooms.

Such person shall also construct every such window so that *one-half*, at the least, may be opened, and so that the opening may extend in every case to the top of the window.

Windows of habitable rooms.—Clause 56, on p. 121 of the urban series, omits the word “domestic” in the first line.

10. Every person who shall erect a new domestic building shall so construct every room which shall be situated in the lowest storey of such building, and shall be provided with a boarded floor, that there shall be, for the purpose of ventilation between the under-side of every joist on which such floor may be laid, and the upper surface of the ground or of the asphalt or concrete with which such ground is covered, a clear space of *three inches* at the least in every part, if such ground be covered with asphalt or concrete, and of *nine inches* at the least in every part if such ground be not so covered, and he shall cause such

Ventilation under floor of lowest storey.

space to be thoroughly ventilated by means of suitable and sufficient air-bricks, or by some other effectual method.

Ventilating space under floor.—Compare with this byelaw clause 55 in the urban series, which contains a proviso for solid floors laid or bedded directly upon concrete or other similar dry and impervious foundations.

“It may be pointed out that the object of byelaw 10 is to secure the ventilation of the space between the ground surface beneath the building, for the purpose of dispersing any damp or foul air which may collect there, and of preserving the timbers from decay. It is desirable that an ampler space should be provided where the ground surface is not covered with an asphalt or concrete layer, since the natural soil is always more or less porous and retentive of moisture” (Memorandum, June, 1901).

11. [*Ventilation of habitable rooms without fireplaces.*—This byelaw follows clause 57 of the urban series (see p. 122), but requires only fifty (instead of one hundred) square inches as the minimum extent of ventilating aperture.]

12. [*Ventilation of public buildings.*—The requirements of this byelaw follow those of clause 58, p. 122.]

With respect to the drainage of buildings.

Subsoil
drainage.

13. Every person who shall erect a new building shall cause the subsoil of the site of such building to be effectually drained by means of suitable earthenware field pipes, properly laid to a suitable outfall, wherever the dampness of the site renders such a precaution necessary.

He shall not lay any such pipe in such a manner or in such a position as to communicate directly with any sewer or cesspool, or with any drain constructed or adapted to be used for conveying sewage.

Drainage of subsoil.—“Byelaw 13 requires the drainage of the subsoil of a new building. It will only need to be observed in cases where the site is naturally damp” (Memorandum, June, 1901). In the urban series there is a provision requiring that the subsoil drain shall be trapped, and that in connection with the trap there shall be a ventilating opening. (See clause 59, p. 123.)

Level of
lowest storey.

14. Every person who shall erect a new building shall construct the lowest storey of such building at such a level that it may be practicable to construct a drain sufficient for the effectual drainage of such building and to provide the requisite communication with any sewer.

Level of lowest storeys of buildings.—This clause may be compared with clause 61 of the urban series. (See p. 126.)

Construction
of drains.

15.—(1.) Every person who shall erect a new building shall, in the construction of every drain of such building, other than a

drain constructed in pursuance of the byelaw in that behalf for the drainage of the subsoil of the site of such building, use good sound pipes formed of glazed stoneware [heavy cast iron], or other equally suitable material.

(2.) He shall cause every such drain to be of adequate size, and, if constructed or adapted to be used for conveying sewage to have an internal diameter not less than *four inches*, and to be laid where necessary in a bed of good concrete, with a proper fall, and with watertight, socketed, or other suitable joints.

(3.) He shall not construct any such drain so as to pass under any building, except in any case where any other mode of construction may be impracticable.

In that case, he shall cause such drain to be laid in a direct line for the whole distance beneath such building, and to be completely embedded in and covered with good and solid cement concrete, at least *six inches* thick, all round.

He shall also cause adequate means of access to be provided in connection with such drain at each end of such portion thereof as is beneath such building.

(4.) He shall cause every inlet to any drain, not being an inlet provided in pursuance of the byelaw in that behalf as an opening for the ventilation of such drain, to be properly trapped.

Construction of drains.—Comparing this byelaw with clause 62 of the urban series, it is to be noticed that sub-clauses (1) and (4), with the addition in (1) of the words in brackets, follow sub-clauses (1) and (6) of the byelaw on p. 127. Sub-clause (2) of the present clause does not discriminate, as do sub-clauses (3) and (4) of clause 62, p. 127, between iron drains and other drains, but makes a bed of good concrete obligatory only “where necessary.” As regards embedding in concrete, sub-clause (3) makes no exception in favour of iron drains.

16. Every person who shall erect a new building shall provide, within the curtilage thereof, in every main drain or other drain of such building which may directly communicate with any sewer or other means of drainage into which such drain may lawfully empty, a suitable trap at a point as distant as may be practicable from such building and as near as may be practicable to the point at which such drain may be connected with such sewer or other means of drainage. Drains to be trapped.

Disconnection of house drains from sewers.—This byelaw follows clause 63 of the urban series, but omits the second paragraph requiring means of access to the trap for purposes of cleansing.

17. A person who shall erect a new building shall not construct the several drains of such building in such a manner as to Junction of drains.

form in such drains any right-angled junction, either vertical or horizontal. He shall cause every branch drain or tributary drain to join another drain obliquely in the direction of the flow of such other drain.

Right-angled junctions in drains prohibited.—Compare clause 64 in the urban series (p. 131).

Ventilation
of drains.

18. Every person who shall erect a new building shall, for the purpose of securing efficient ventilation of the several drains of such building constructed or adapted to be used for conveying sewage, comply with the following requirements :—

Air inlet and
outlet.

- (1.) He shall provide at least two untrapped openings to such drains, of which openings one shall be situated as near as may be practicable to the trap which, in pursuance of the byelaw in that behalf, shall be provided between the main drain or other drain of the building, and the sewer or other means of drainage with which such drain may lawfully communicate, and on that side of the trap which is the nearer to the building ; and the second opening shall be as far distant as may be practicable from the point at which the first-mentioned opening shall be situated.

One of the aforesaid openings shall be at or near the level of the surface of the ground adjoining such opening, and shall communicate with the drains by means of a suitable pipe, shaft, or disconnecting chamber.

The other opening shall be obtained by carrying up a pipe or shaft, vertically, to such a height and in such a manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof, and in no case to a less height than *ten feet*.

Provided always, that the soil pipe of any watercloset, in every case where the situation, sectional area, height, and mode of construction of such soil pipe shall be in accordance with the requirements applicable to the pipe or shaft to be carried up from the drains, may be deemed to provide the necessary opening for ventilation which would otherwise be obtained by means of such last-mentioned pipe or shaft.

Each opening
to be covered
with a
grating, etc.

- (2.) He shall cause every opening provided in accordance with the arrangements hereinbefore specified to be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction in or injury to any pipe or drain by the introduction of any substance through any such opening. He shall, in every case,

cause such grating or cover to be so constructed and fitted as to secure the free passage of air through such grating or cover by means of a sufficient number of apertures, of which the aggregate extent shall be not less than the sectional area of the pipe or drain to which such grating or cover may be fitted.

- (3.) Every pipe or shaft which may be used in connection with the arrangements hereinbefore specified shall be of a sectional area not less than that of the drain with which such pipe or shaft may communicate. Sectional area of ventilating shafts.

Provided that where such pipe or shaft communicates with a drain of an internal diameter of *four inches*, the sectional area of such pipe or shaft may be not less than *three and a half inches*.

- (4.) No bend or angle shall (except where unavoidable) be formed in any pipe or shaft used in connection with the arrangements hereinbefore specified. Unnecessary bends or angles prohibited.

- (5.) Provided that—

- (a) Where there is no watercloset within the building and connected with the drain, and the drain shall not be more than *twenty feet* in length, the requirements of this byelaw shall not apply to the case ; Proviso for short drains not connected with water-closets.

- (b) Where the aggregate length of so much of the drain or drains of a new building as is above the trap to be provided in pursuance of the byelaw in that behalf in every main drain or other drain of such building which may directly communicate with any sewer or other means of drainage into which such drain may lawfully empty, shall not exceed *thirty feet*, and such drain or any of such drains shall not be connected with any watercloset which has internal communication with any building, the opening required by this byelaw to be provided at or near the level of the surface of the ground may be dispensed with.

Ventilation of drains.—Pending any revision of this series by the Local Government Board, attention should be directed to clause 65 of the urban series (p. 131).

19. [*Drain inlets and waste pipes.*—The byelaw follows clause 66, p. 135, except that it allows a minimum diameter of three-and-a-half inches (instead of “four inches”) for soil pipes, and in the fourth paragraph refers to the waste pipes from slop sinks as well as soil pipes.]

Model byelaws with respect to waterclosets, earthclosets, privies, ashpits, and cesspools.—“The succeeding byelaws 20 to 42 relating to

waterclosets, earthclosets, privies, ashpits and cesspools, apply to the new construction of these conveniences in all cases, whether in connection with a new or an old building. The byelaws do not require the construction of these conveniences, etc., but merely regulate their construction where they are provided. The omission of a byelaw as to any one of them would have the effect of leaving the particular construction unregulated, and would not prevent its erection.

“Byelaws 20 to 24, relating to waterclosets, do not call for any detailed remarks” (Memorandum, June, 1901).

With respect to waterclosets in connection with buildings, and with respect to the keeping of waterclosets supplied with sufficient water for flushing.

20. [*One side of watercloset to be an external wall.*—This follows clause 67, p. 137, of the urban series so far as it relates to water-closets.]

Lighting and
ventilation of
waterclosets.

21. Every person who shall construct a watercloset within a building shall construct in one of the walls of such watercloset a window of not less dimensions than *two feet by one foot*, exclusive of the frame, and opening directly into the external air.

He shall, in addition to such window, cause such watercloset to be provided with adequate means of constant ventilation by at least one air-brick built in an external wall of such watercloset, or by an air shaft, or by some other effectual method or appliance.

22. Every person who shall construct a watercloset in connection with but not within a building shall cause the same to be provided with a sufficient opening for lighting and ventilation, as near to the top as convenient, and communicating directly with the external air.

Lighting and ventilation of waterclosets.—Compare urban series, clause 68, p. 139.

23. [*Flushing apparatus and pans of waterclosets.*—The clause here follows that numbered 69, p. 139, in the urban series.]

Flushing of
waterclosets.

24. The occupier of any premises shall, throughout any period during which any person may inhabit the premises, or may be employed therein in any manufacture, trade, or business, cause every watercloset provided on or in connection with the premises to be supplied with a sufficient quantity of water for the proper flushing of such watercloset :

Provided that, where there are two or more occupiers of the premises on or in connection with which any such watercloset is.

provided, the foregoing requirement shall apply to such one or more of the said occupiers as, according to the terms and conditions of his or their occupation of the premises, may have the exclusive or joint control of the watercloset.

Flushing of waterclosets.—See note to clause 69 in the urban series.

With respect to earthclosets and privies in connection with buildings.

Model byelaws with respect to earthclosets and privies.—"It will be observed that similar provisions have been made applicable to both earthclosets and privies. In the earlier model byelaws issued by the Board* a distinction is drawn between the two kinds of conveniences, but the Board are advised that, except where an earthcloset is carefully attended to and proper arrangements are made for the supply of dry earth (not ashes), it is apt to be treated merely as a privy. In general, no distinction can usefully be made, but it is of course open to a rural district council, who are prepared to undertake the supply of dry earth, or who can show that facilities for obtaining it exist, to propose the adoption of byelaws dealing with earthclosets apart from privies, and for this purpose they are referred to the clauses on the subject in the existing urban model byelaws"* (Memorandum, June, 1901).

25. Every person who shall construct an earthcloset or a privy in connection with a building shall construct such earthcloset or privy at a distance of *ten feet* at the least from a dwelling-house or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

Position of earthcloset or privy in relation to buildings ;

26. A person who shall construct an earthcloset or a privy in connection with a building shall not construct such earthcloset or privy within the distance of *feet* from any well, spring, or stream of water used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or otherwise in such a position as to render any such water liable to pollution.

in relation to sources of water supply ; and

27. Every person who shall construct an earthcloset or a privy in connection with a building shall construct such earthcloset or privy in such a manner and in such a position as to afford ready means of access to such earthcloset or privy, for the purpose of cleansing such earthcloset or privy and of removing filth therefrom, and in such a manner and in such a position as to admit of all filth being removed from such earthcloset or privy, and

for purposes of cleansing.

* Now see clauses 67, 68 and 70 to 80 of the revised model series, pp. 137, 139, and 143 to 150, *ante*.

from the premises to which it may belong, without being carried through any dwelling-house or public building, or any building in which any person may be, or may be intended to be, employed in any manufacture, trade, or business.

Position and construction of earthcloset or privy.—The provisions of clauses 25 to 27 of this series are similar to those contained in clauses 74 to 76 of the urban series as regards privies.

“Byelaw 25 requires an earthcloset or privy to be placed at a distance of ten feet at least from a dwelling-house or public building, or a building in which any person may be employed, etc. In the existing model* this distance is six feet, but the Board are advised that on sanitary grounds it is desirable that a greater distance should be secured, and they suggest that ten feet is a reasonable minimum distance in a rural district, and such as could always be obtained. Indeed, a council might consider whether a greater distance might not reasonably be required.

“Byelaw 26. This is for the protection of water supplies, and the Board regard it as of considerable importance. The Board have not inserted any distance in the byelaw, but suggest that the council should fix the greatest distance which the circumstances of the district render reasonable—forty feet is the distance commonly adopted. It must be remembered that the consequences of a pollution of a water supply arising from a defective or badly managed privy, etc., are so serious that the utmost precautionary measures should be taken to prevent such a result.

“The remaining byelaws as to earthclosets and privies deal with details of construction to secure their convenient and cleanly use. . . .

“The principles to be held in view are that the receptacle of the privy should be of the smallest practicable dimensions, having regard to the facilities for the periodical removal of its contents; that with a view to secure dryness of the contents it should be of impervious construction and entirely above the ground level, and be covered so as to exclude rainfall; and that it should be provided with means for the application of earth or ashes to the excrement, and with means of access for the removal of the contents from the outside, so that the laborious and offensive operation of working in the pit may be avoided” (Memorandum, June, 1901).

Lighting and ventilation of earthclosets and privies.

28. Every person who shall construct an earthcloset or a privy in connection with a building shall provide such earthcloset or privy with a sufficient opening for light and ventilation, as near to the top as convenient, and communicating directly with the external air.

Floors of earthclosets and privies.

He shall cause the floor of such earthcloset or privy to be flagged or paved with hard tiles or other non-absorbent material, and he shall construct such floor so that it shall be in every part thereof at a height of not less than *six inches* above the level of the surface of the ground adjoining such earthcloset or privy,

* That is, the model as issued in 1877; but in fact the provision referred to applied only to privies. In the revised model series, no distance is specified. (See clause 74, p. 146.)

and so that such floor shall have a fall or inclination towards the door of such earthcloset or privy of *half an inch* to the *foot*.

Lighting and ventilation, and construction of floors of earthclosets and privies.—Compare with these provisions those contained in clauses 68 and 77 of the urban series (pp. 139 and 147), here virtually combined and made applicable alike to earthclosets and to privies.

29. Every person who shall construct an earthcloset or a privy in connection with a building shall provide, construct, or fix in or in connection with such earthcloset or privy suitable means or apparatus for the frequent and effectual application of dry earth, or other deodorising substance, or of ashes, dust, or dry refuse, to any filth which may from time to time be deposited in the receptacle of such earthcloset or privy.

Apparatus of earthclosets and privies.

Apparatus of earthclosets and privies.—See clauses 70 and 79 of the urban series (pp. 143 and 148).

30. Every person who shall construct an earthcloset or privy in connection with a building, and shall construct such earthcloset or privy for use in combination with a movable receptacle for filth, shall construct over the whole area of the space immediately beneath the seat of such privy a floor flagged or asphalted or concreted and rendered in cement, at a height of not less than *three inches* above the level of the surface of the ground adjoining such earthcloset or privy; and he shall cause the whole extent of each side of such space between the floor and the seat to be constructed of such materials and in such manner as to prevent any absorption by any part thereof of any filth deposited in such privy or earthcloset.

Earthclosets and privies with movable receptacles.

He shall construct the seat of such earthcloset or privy, the aperture in such seat, and the space beneath such seat, of such dimensions as to admit of a movable receptacle for filth of a capacity not exceeding *two cubic feet* being placed and fitted beneath such seat in such a manner and in such a position as may effectually prevent the deposit, upon the floor or sides of the space beneath such seat or elsewhere than in such receptacle, of any filth which may from time to time fall or be cast through the aperture in such seat.

He shall construct the seat of such earthcloset or privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath such seat for the purpose of cleansing such space, or of removing therefrom or placing and fitting

therein the appropriate receptacle for filth, or shall otherwise provide adequate means of access to such space for the purposes aforesaid.

Earthclosets and privies with movable receptacles.—See the provisions in the urban series, clauses 72, 73 and 78 (pp. 145 and 148).

Earthclosets
and privies
with fixed
receptacles.

31. Every person who shall construct an earthcloset or a privy in connection with a building, and shall construct such earthcloset or privy for use in combination with a fixed receptacle for filth, shall construct such receptacle so that the contents thereof may not at any time be exposed to any rainfall or the drainage of any waste water or liquid refuse from any adjoining premises.

He shall construct such receptacle of such material or materials and in such a manner as to prevent any absorption by any part of such receptacle of any filth deposited therein or any escape, by leakage or otherwise, of any part of the contents of such receptacle.

He shall construct such receptacle so that the bottom or floor thereof shall be in every part at least *three inches* above the level of the surface of the ground adjoining such receptacle.

He shall not in any case construct such receptacle of a capacity exceeding *twelve cubic feet*.

He shall construct the seat of such earthcloset or privy so that the whole of such seat, or a sufficient part thereof, may be readily removed or adjusted in such a manner as to afford adequate access to such receptacle for the purpose of removing the contents thereof, and of cleansing such receptacle, or shall otherwise provide adequate means of access to such receptacle for the purpose aforesaid.

Earthclosets and privies with fixed receptacles.—See clauses 71 and 79 of the urban series (pp. 144 and 148). The urban clauses omit the words “from any adjoining premises,” which appear at the end of the first paragraph of the present series.

Communica-
tion of earth-
closet or privy
with drain
prohibited.

32. A person who shall construct an earthcloset or a privy in connection with a building shall not cause or suffer any part of the space under the seat of such earthcloset or privy, or any part of any receptacle for filth in or in connection with such earthcloset or privy to communicate with any drain.

Drainage of earthcloset or privy prohibited.—See the remarks, p. 150, *ante*, on clause 80 of the urban series. That clause relates only to privies.

With respect to ashpits in connection with buildings.

Model byelaws with respect to ashpits.—“Byelaws [33 to 38] deal with the construction of ashpits. As regards byelaws [33 and 34] the Board would refer the council to the remarks above on byelaws [25 and 26]. Similar considerations apply to the fixing of the distances in these clauses” (Memorandum, June, 1901).

33. [*Position of ashpit in relation to buildings.*]

34. [*Position of ashpit in relation to sources of water supply.*]

35. [*Position of ashpit for purposes of cleansing.*]

Position of ashpit.—Clauses 33, 34, and 35 of this series follow respectively the byelaws numbered 81, 82, and 83, on p. 150.

36. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of a capacity not exceeding in any case *twenty cubic feet*, or of such less capacity as may be sufficient to contain all dust, ashes, rubbish, and dry refuse which may accumulate during a period not exceeding one month upon the premises to which such ashpit may belong.

Capacity of ashpits.

Capacity of ashpits.—This byelaw is framed so as to permit of one month's accumulation instead of one week's, as provided for in clause 84 of the urban series. (See p. 151.) The clause referred to omits all the words after “cubic feet.”

37. Every person who shall construct an ashpit in connection with a building shall construct such ashpit of flagging, or of slate, or of good brickwork, at least *nine inches* thick, and rendered inside with good cement or properly asphalted.

Construction of ashpits.

He shall construct such ashpit so that the floor thereof shall be at a height of not less than *three inches* above the surface of the ground adjoining such ashpit, and he shall cause such floor to be properly flagged or asphalted or concreted and rendered in cement.

He shall cause such ashpit to be properly roofed over and ventilated, and to be furnished with a suitable door in such a position and so constructed and fitted as to admit of the convenient removal of the contents of such ashpit, and to admit of being securely closed and fastened for the effectual prevention of the escape of any of the contents of such ashpit.

Construction of ashpits.—Save for the addition of the words “or concreted and rendered in cement” at the end of the second paragraph,

the present clause follows without alteration that numbered 85 in the urban series.

38. [*Communication of ashpit with drain prohibited.*—This clause follows No. 86, p. 152, of the urban series.]

With respect to cesspools in connection with buildings.

Model byelaws with respect to cesspools.—“Byelaws [39 to 42] deal with the construction of cesspools. The council should themselves insert the distances in byelaws [39 and 40] having regard to the circumstances of their district. The distance to be prescribed should be reasonable but should be adequate to ensure efficient protection for the purposes of the byelaws. The Board may say that in cases that have come before them they have advised minimum distances of 50 and 60 feet respectively in corresponding byelaws” (Memorandum, June, 1901).

39. [*Position of cesspool in relation to buildings.*]

40. [*Position of cesspool in relation to sources of water supply.*]

41. [*Position of cesspool for purposes of cleansing: Cesspool not to be connected with any sewer.*]

42. [*Construction of cesspool.*]

Model byelaws with respect to cesspools.—The above clauses with respect to cesspools in connection with buildings do not differ from the model clauses 88, 89, 90, and 91 contained in the urban series. (See pp. 152—154.)

With respect to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

43. [*Closing of buildings. Form of notice and of order.*—This byelaw and the forms prescribed by it are in the same terms as byelaw 93, p. 155, in the urban series.]

As to the giving of notices ; as to the deposit of plans and sections by persons intending to construct buildings ; and as to inspection by the council.

44. Every person who shall intend to erect a building to which the byelaws relating to new buildings will apply shall give to the council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same time deliver

Notice of intention to erect a building : plans and sections to accompany notice.

or send, or cause to be delivered or sent, to their clerk at his or their office, or to their surveyor at his or their office, plans and sections of such intended building, which shall be drawn to a scale of not less than *one inch* to every *eight feet*, and shall indicate, so far as may be necessary to show compliance with the byelaws, the position, form, and dimensions of such building, and of every watercloset, earthcloset, privy, ashpit, cesspool, well, and all other appurtenances, the damp course, the level of the lowest floor of such building and of any yard or [open space] belonging thereto, and in which the building shall be so described as to show whether it is intended to be used as a dwelling-house or otherwise.

Such person shall at the same time deliver or send, or cause to be delivered or sent, to the clerk to the council at his or their office, or to their surveyor at his or their office, a description in writing of the intended mode of drainage of such building and means of water supply.

Such person shall at the same time deliver or send, or cause to be delivered or sent, to the clerk to the council at his or their office, or to their surveyor at his or their office, a block plan of such building, to a scale of not less than *one inch* to every *forty-four feet*, and shall show the position of the buildings and appurtenances of the properties immediately adjoining, and the width of the street, if any, in front.

Such person shall likewise show on such plan the intended lines of drainage of such building, and the intended size, depth, and inclination of each drain; and the details of the arrangement proposed to be adopted for the ventilation of the drains.

Such person shall sign such plans and sections or cause the same to be signed by his duly authorised agent.

45. [*Notice before commencing new building, etc., and before covering up drain. Failing notice, work may be cut into, laid open, or pulled down.*]

46. [*Notice to amend work in contravention of byelaw. Notice of compliance with requirements of council. Surveyor to have access to work.*]

47. [*Surveyor to have access to works during progress.*]

48. Every person who shall erect a building or execute any work to which the foregoing byelaws apply shall, within a

Notice of
completion
of new
building, etc.

Surveyor to
have access
to works.

reasonable time after the completion of the erection of such building, or the conclusion of such work, deliver or send, or cause to be delivered or sent, to the surveyor of the council, at his or their office, notice in writing of the completion of the erection of such building, or the conclusion of such work, and shall, at all reasonable times, within a period of *seven days* after such notice shall have been so delivered or sent, and in the case of the erection of a building before such building shall be occupied, afford such surveyor free access to every part of such building or of such work for the purpose of inspection.

Giving of notices, etc.—Clauses 44 to 48 above do not differ greatly in substance from clauses 95, 96, 97, 98 and 100 in the urban series, and should be compared therewith. They are limited, however, to the erection of new buildings and the execution of any other work to which the present series of byelaws would be applicable.

Penalties.

49. [Byelaw follows without alteration clause 101, on p. 168.]

As to the power of the council to remove, alter, or pull down any work begun or done in contravention of the byelaws.

50. [Byelaw follows without alteration clause 102, on p. 169.]

Repeal of byelaws.

51. [This clause follows the form of No. 103 in the urban series. (See p. 171.)]

MEMORANDUM

with respect to certain additional byelaws (Series IV. (1890)) suggested by the Editors with respect to new streets and buildings, and the alteration of buildings.*

Authority for the byelaws.

SECTION 157 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), authorises (according to the Revised Statutes) the making, by any urban authority, of byelaws as to the following matters, viz.:—

“(1.) With respect to the level, width and construction of new streets, and the provisions for the sewerage thereof:

“(2.) With respect to the structure of walls, foundations, roofs, and chimneys of new buildings, for securing stability and the prevention of fires, and for purposes of health :

“(3.) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings :

“(4.) With respect to the drainage of buildings, to water-closets, earthclosets, privies, ashpits, and cesspools, in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation,”

and it enables the authority to “provide for the observance of such byelaws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws.”

The section provides, however, that “no byelaw made under

* The reference is to the date of the Act under which the byelaws are chiefly framed.

this section shall affect any building erected in any place (which at the time of the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment.”

The provisions of this section do not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

Section 23 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), extends the above-mentioned enactment as follows:—

“(1.) Section one hundred and fifty-seven of the Public Health Act, 1875, shall be extended so as to empower every urban authority to make byelaws with respect to the following matters; that is to say:—

“The keeping waterclosets supplied with sufficient water for flushing;

“The structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation.

“The paving of yards and open spaces in connection with dwelling-houses; and

“The provision in connection with the laying out of new streets of secondary means of access where necessary for the purpose of the removal of house refuse and other matters.

“(2.) Any byelaws under that section as above extended with regard to the drainage of buildings, and to waterclosets, earth-closets, privies, ashpits, and cesspools, in connection with buildings, and the keeping waterclosets supplied with sufficient water for flushing, may be made so as to affect buildings erected before the times mentioned in the said section.

“(3.) The provisions of the said section (as amended by this Act), so far as they relate to byelaws with respect to the structure of walls and foundations of new buildings for purposes of health, and with respect to the matters mentioned in sub-sections (3) and (4) of the said section, and with respect to the structure of floors, the height of rooms to be used for human habitation, and to the keeping of waterclosets supplied with sufficient water for flushing, shall be extended so as to empower rural authorities to make byelaws in respect to the said matters,

and to provide for the observance of such byelaws, and to enforce the same as if such powers were conferred on the rural authorities by virtue of an order of the Local Government Board made on the day when this part of this Act is adopted ; and section one hundred and fifty-eight of the Public Health Act, 1875, shall also apply to any such authority, and shall be in force in every rural district where this part of this Act is adopted.

“(4.) Every local authority may make byelaws to prevent buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws.”

The effect of these provisions is,—

First, to enable any rural authority which has adopted Part III. of the Act of 1890 (see sections 3 and 50 of the Act) to make byelaws on the following subjects mentioned in section 157 of the Public Health Act, 1875, although otherwise that section refers only to urban authorities, viz.,—

- (a) The structure of walls and foundations of buildings for purposes of health ;
- (b) Space about buildings, and the ventilation of buildings ;
- (c) The drainage of buildings ;
- (d) Waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings ; and
- (e) The closing of buildings unfit for human habitation.

Secondly, any local authority, whether urban or rural, may (if they have adopted Part III. of the Act of 1890), make byelaws on the following matters, which are *not* mentioned in section 157 of the Public Health Act, 1875, viz.,—

- (f) The structure of floors ;
- (g) The height of rooms ;
- (h) The flushing of waterclosets ; and
- (i) The alteration of buildings.

Further, an urban authority may, after adopting Part III. of the Public Health Acts Amendment Act, 1890, make byelaws on certain other additional points, viz.,—

- (j) The structure of hearths and staircases ;
- (k) The paving of yards ; and
- (l) The provision of secondary means of access to buildings.

Lastly, any byelaws as to—

- (i.) The drainage of buildings ;
- (ii.) Waterclosets, earthclosets, privies, ashpits, and cesspools in connection with buildings ; and
- (iii.) The flushing of waterclosets,

may be made so as to affect any building, whether erected before or after the times mentioned in section 157 of the Public Health Act, 1875.

Any part of section 23 of the Act of 1890 which is not in force in a rural district may be put in force therein by an order of the Local Government Board (section 5 of the Act).

Such byelaws as to the construction of roofs as are included in the present series can be made by any urban district council, and by any rural district council invested with the necessary “urban powers.” The authority for these byelaws is section 157 (2) of the Public Health Act, 1875.

Scope of the model byelaws.

The annexed model byelaws are designed to supplement Series IV. (as to new streets and buildings), issued by the Local Government Board in such a way as to enable local authorities to take the fullest practical advantage of the powers conferred by section 23 of the Public Health Acts Amendment Act, 1890. The only matter germane to the subject which is not dealt with in the series is the extension to old buildings of any byelaws which may have been or may be made by the local authority with respect to drainage. (See sub-sections (2) (3) of section 23 of the Act.) It is considered preferable to deal with the drainage of existing buildings by means of a separate series of byelaws. A draft series on the subject will be found on pp. 226 to 230. Subject to this, great care has been taken to provide as to all such matters as can usefully be made the subject of byelaws, under section 23 of the Act of 1890 ; and it is believed that the series, as a whole, is the most complete that could be suggested, having regard to some considerations of a practical nature into which it seems scarcely necessary to enter here.

Arrangement of the clauses.

As in many cases local authorities may wish to combine the present series with the model clauses as to new streets and buildings issued by the Local Government Board, it has been

thought convenient to indicate in the margin of the series the place which the clauses under each sub-heading should occupy in such a combined series. The Roman numeral "IV.," followed by figures in brackets, has for this purpose been used to indicate the number of the clause of the Local Government Board, immediately after which any clause or group of clauses should be placed, with its appropriate heading.

Confirmation of the byelaws.

Byelaws made under section 23 of the Public Health Acts Amendment Act, 1890, require confirmation by the Local Government Board, to whom a draft of any proposed clauses should be submitted before any formal steps are taken with regard to the adoption of the byelaws. See note in italics at the head of the next page.

Copyright Series.

[NOTE.—*The publishers supply draft forms of these byelaws enabling any local authority proposing to make byelaws on the subjects mentioned in the series to submit their proposals to the Local Government Board in a convenient form. That Board desires all proposed byelaws to be submitted to them, in the first instance, in draft (in duplicate).*]

MODEL BYELAWS SUGGESTED BY THE EDITORS
UNDER THE PUBLIC HEALTH ACT, 1875, AND THE
PUBLIC HEALTH ACTS AMENDMENT ACT, 1890,
WITH RESPECT TO NEW STREETS AND BUILD-
INGS AND THE ALTERATION OF BUILDINGS.

BYELAWS

MADE BY THE* WITH RESPECT TO NEW STREETS AND
BUILDINGS AND THE ALTERATION OF BUILDINGS IN THE† .

Interpreta-
tion of terms.

Interpretation of terms.

1. Throughout these byelaws, the following words and expressions shall have the meanings hereinafter respectively assigned to them, that is to say,—‡

- “ District ” means
- “ Council ” means
- “ Base ” applied to a wall means
- “ Party wall ” means
- “ External wall ” means
- “ Public building ” means
- “ Building of the warehouse class ” means
- “ Domestic building ” means
- “ Dwelling-house ” means
- “ Width,” applied to a new street, means

* “ Mayor, aldermen, and burgesses of the borough of , acting by the Council ” ; or, “ Urban [or Rural] District Council of ” ; as the case may be.

† Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district, “ that portion of the Rural District of which comprises the contributory places of ” ; as the case may be.

‡ Complete the first ten definitions as in clause 1, pp. 55 and 56.

“Length,” as applied to any timber used or intended to be used in the construction of any roof or floor, means the length of such timber in clear bearing.

“Depth,” as applied to any timber used or intended to be used in the construction of any roof or floor, means the depth of such timber measured between the upper and lower surfaces of the timber when laid and fixed on edge, its greatest side being as nearly as practicable in a vertical position.

“Strength,” as applied to any timber used or intended to be used in the construction of any roof or floor, means the strength represented by multiplying the depth of the timber in inches by itself, and the product by the thickness of the timber in inches.

Interpretation of terms.—With regard to the first ten definitions, which should follow the definitions in clause 1 of the model series (IV.) of the Local Government Board, see notes on pp. 56 to 60. These ten definitions should be omitted where the two series are combined. (See note on p. 73.)

“Length,” “Depth,” “Strength.”—These definitions are required in connection with clauses 4 to 11 of the present series.

Exempted buildings.

2. The following buildings shall be exempt from the operation of the byelaws relating to new streets and buildings*

* * * * *

With respect to the provision, in connection with the laying out of new streets, of secondary means of access where necessary for the purpose of the removal of house refuse and other matters. [After IV. (9).]

3. Every person who shall lay out a new street intended to form the principal approach or means of access to any building, shall, in connection with the laying out of such street, provide secondary means of access where necessary for the purpose of the removal of house refuse and other matters. Secondary means of access.

Secondary means of access.—Section 23 of the Public Health Acts Amendment Act, 1890, provides for the making of byelaws on this subject in connection only with the laying out of new streets; and the byelaws can only apply where secondary means of access are “necessary for the purpose

* Complete this clause, following clause 2 on p. 60. Where a combined series is proposed, omit the present clause.

of the removal of house refuse *and* other matters.” It should be borne in mind that secondary means of access may be given without necessarily providing “back streets.” But the width of secondary access streets is best regulated by adopting the model clause in the series (IV.) of the Local Government Board. (See p. 69.) It is scarcely within the scope of the present series.

Timbers of roofs and floors.—The framing of byelaws prescribing scantlings for timbers of roofs and floors is, for various reasons, a matter of some difficulty. It is believed, however, that the clauses contained in the present series will be found to be sufficiently elastic in their application to obviate any objection on the ground of undue stringency, while at the same time, proper stability is secured. Attention may be directed to the regulations contained in the provisoes to clauses 4 and 8, and elsewhere in the series. The model series should, as regards the strength of timbers, be treated as suggesting what may be termed the mean, rather than the maximum, or even the minimum, requirements under this head. The object which has been kept in view in the preparation of the series, has been to afford to local authorities proposing to regulate the structure of roofs and floors, a safe guide as to the provisions which they may reasonably embody in their byelaws. Some regard must be paid to local practice in these matters, but if it is found necessary to modify the requirements of the model byelaws, the modifications should be well considered, so as not to affect stability of structure. The rigidity of the timbers, as well as their bearing strength, is a matter to be considered if such modifications are proposed.

[After
IV. (51).]

With respect to the structure of roofs of new buildings for securing stability.

Timbers of
roofs of
ordinary
construction.

4. Every person who shall erect a new building, and shall construct the roof of such building—

with rafters and purlins of good sound fir, or pine, laid and fixed on edge in the ordinary way ;

the rafters being laid at a distance of *fifteen inches* apart, measured from the middle of one rafter to the middle of the next, or to the nearest wall ;*

the purlins being laid at a distance of not more than *nine feet* apart, measured from the middle of one purlin to the middle of the next, or to the ridge, or to the wallplate ;* and

the roof being covered with slates of the usual kind, shall cause the several common rafters and purlins in such roof

* Rafters and purlins of a less “strength” than is prescribed in sub-clauses (1) and (2) may be used, if laid at a less distance apart than is here specified, under proviso (2), p. 209, and timbers of equal “strength” to those mentioned in sub-clauses (1) and (2), although not of the same dimensions, are permitted by proviso (1). The “strength” of timbers of certain roofs to which this clause does not apply is regulated by clause 5, p. 209. “Strength” is defined in clause 1. (See p. 205.)

to be, in every part, of not less depth* and thickness than are hereinafter prescribed.

- (1.) *Subject as hereinafter provided,*† such person shall cause every common rafter to be of not less depth and thickness than the following, that is to say,—
- | | |
|--|------------------------------------|
| | Common
rafters. |
| (a) If the length* of such rafter be not more than <i>six feet</i> , its depth shall be <i>three inches</i> , and its thickness <i>two inches</i> . | Length, up
to 6 ft. |
| (b) If the length of such rafter be more than <i>six feet</i> , but not more than <i>seven feet six inches</i> , its depth shall be <i>three inches</i> , and its thickness <i>two and a half inches</i> . | Length, 6 ft.
to 7 ft. 6 in. |
| (c) If the length of such rafter be more than <i>seven feet six inches</i> , but not more than <i>nine feet</i> , its depth shall be <i>four inches</i> , and its thickness <i>two and a half inches</i> . | Length,
7 ft. 6 in. to
9 ft. |
- (2.) *Subject as hereinafter provided,*† such person shall cause every purlin to be of not less depth* and thickness than the following, that is to say,—
- | | |
|---|--|
| | Purlins. |
| (a) Where the length* of such purlin is not more than <i>six feet six inches</i> ,— | Length, up
to 6 ft. 6 in. |
| (i.) If the distance of the purlins apart be not more than <i>six feet</i> , the depth of the purlin shall be <i>four and a half inches</i> , and its thickness <i>three inches</i> . | |
| (ii.) If the distance of the purlins apart be more than <i>six feet</i> , but not more than <i>nine feet</i> , the depth of the purlin shall be <i>five and a half inches</i> , and its thickness <i>three inches</i> . | |
| (b) Where the length of such purlin is more than <i>six feet six inches</i> , but not more than <i>eight feet six inches</i> ,— | Length,
6 ft. 6 in. to
8 ft. 6 in. |
| (i.) If the distance of the purlins apart be not more than <i>six feet</i> , the depth of the purlin shall be <i>six inches</i> , and its thickness <i>three and a half inches</i> . | |

* The expressions "depth" and "length" are defined on p. 205.

† The words in italics which preface each of the sub-clauses refer to the provisos to this clause and to clause 5.

Length,
8 ft. 6 in. to
10 ft. 6 in.

- (ii.) If the distance of the purlins apart be more than *six feet*, but not more than *nine feet*,
the depth of the purlin shall be *seven inches*, and
its thickness *three and a half inches*.

- (c) Where the length of such purlin is more than *eight feet six inches*, but not more than *ten feet six inches*,—

- (i.) If the distance of the purlins apart be not more than *six feet*,
the depth of the purlin shall be *seven inches*, and
its thickness *four inches*.

- (ii.) If the distance of the purlins apart be more than *six feet*, but not more than *nine feet*,
the depth of the purlin shall be *eight inches*, and
its thickness *four inches*.

Length,
10 ft. 6 in. to
12 ft. 6 in.

- (d) Where the length of such purlin is more than *ten feet six inches*, but not more than *twelve feet six inches*,—

- (i.) If the distance of the purlins apart be not more than *six feet*,
the depth of the purlin shall be *eight inches*, and
its thickness *five inches*.

- (ii.) If the distance of the purlins apart be more than *six feet*, but not more than *nine feet*,
the depth of the purlin shall be *nine inches*, and
its thickness *five inches*.

Length,
12 ft. 6 in. to
14 ft. 6 in.

- (e) Where the length of such purlin is more than *twelve feet six inches*, but not more than *fourteen feet six inches*,—

- (i.) If the distance of the purlins apart be not more than *six feet*,
the depth of the purlin shall be *nine inches*, and
its thickness *five inches*.

- (ii.) If the distance of the purlins apart be more than *six feet*, but not more than *nine feet*,
the depth of the purlin shall be *ten inches*, and
its thickness *five and a half inches*.

Length,
14 ft. 6 in. to
16 ft. 6 in.

- (f) Where the length of such purlin is more than *fourteen feet six inches*, but not more than *sixteen feet six inches*,—

- (i.) If the distance of the purlins apart be not more than *six feet*,
the depth of the purlin shall be *ten inches*, and
its thickness *five and a half inches*.

- ii.) If the distance of the purlins apart be more than *six feet*, but not more than *nine feet*, the depth of the purlin shall be *eleven inches*, and its thickness *six inches*.

- g) Where the length of such purlin is more than *sixteen feet six inches*, such purlin shall be of such greater strength* as shall be sufficient to secure proper stability, having regard to the distance of the purlins apart.
- Length, over
16 ft. 6 in.

Provided that,—

- (1.) The foregoing requirements of this byelaw as regards the depth and thickness of rafters and purlins shall be deemed to be complied with if the person erecting the new building shall cause the several rafters and purlins to be of at least the same strength* as is required by the byelaw :
- Roofs
(common
rafters and
purlins).
Proviso for
timbers of
the same
strength ;
- (2.) If the rafters be laid at a less distance apart than that specified in this byelaw, they may be of proportionately less strength* than is required by the byelaw.
- and for
timbers of a
less strength.

5. Every person who shall erect a new building, and who shall construct the roof of such building with rafters and purlins laid at a greater distance apart than that specified in the foregoing byelaw, but otherwise in the manner specified in such byelaw, or
- Timbers of
certain roofs
not within
the preceding
byelaw.

who shall cause such roof to be covered with tiles or lead, shall cause such rafters and purlins to be of proportionately greater strength* than is required by such byelaw.

6. Every person who shall erect a new building, and shall cause the roof of such building (not being a boarded roof) to be covered with slates, shall cause the slates to be secured to sawn battens not less than *two inches* in depth and *three-quarters of an inch* in thickness.
- Roof battens.

7. Every person who shall erect a new building, and shall cause the roof of such building to be covered with slates or tiles, shall cause such slates or tiles to be properly laid so as to break joint, and so that each course of slates or tiles shall overlap the course next but one below it to the extent in the case of slates
- Laying and
fixing of
slates or tiles.

* "Strength" is defined on p. 205.

of not less than *three inches*, and in the case of tiles of not less than *two and a half inches*.

If he shall cause such roof to be covered with slates, he shall cause every slate to be secured by not less than two strong copper, galvanised, or other suitable nails, at least *one inch and three-quarters* in length.

[After
IV. (51).]

With respect to the structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation.

FLOORS.

Timbers of
floors of
ordinary
construction.

8. Every person who shall erect a new building, and shall construct any floor in such building—

with joists, or joists and beams or girders of good sound fir or pine, laid on edge in the ordinary way,

the joists being laid at a distance of *fifteen inches* apart, measured from the middle of one joist to the middle of the next, or to the nearest wall,*

the beams or girders being laid at a distance of *ten feet* apart, measured from the middle of one beam or girder to the middle of the next, or to the nearest wall,* and

the joists being covered with boards,

shall cause the several common joists in such floor, and the several beams or girders supporting the same, and not supporting any wall, pier, or other such load, to have a sufficient bearing at each end, and to be, in every part, of not less depth and thickness than are hereinafter prescribed.

Common
joists
(domestic
buildings).

(1.) *Subject as hereinafter provided*,† such person shall, if such building be a domestic building, cause every common joist to be of not less depth and thickness than the following, that is to say,—

Length, up
to 4 ft.

(a) If the length‡ of such joist be not more than *four feet*, its depth shall be *four inches*, and its thickness *two inches*.

* Joists and beams of a less “strength” than is prescribed in sub-clauses (1) to (6) may be used, if laid at a less distance apart than is here specified, under proviso (2), p. 215 : and timbers of equal “strength” to those mentioned in sub-clauses (1) to (6), although not of the same dimensions, are permitted by proviso (1). The “strength” of timbers of certain floors to which this clause does not apply is regulated by clauses 9 and 10, pp. 215, 216. “Strength” is defined in clause 1. (See p. 205.)

† The words in italics which preface each of the sub-clauses refer to the provisos and to clauses 9 and 10.

‡ “Length” is defined on p. 205.

- (b) If the length of such joist be more than *four feet*, but not more than *six feet*, its depth shall be *four and a half inches*, and its thickness *two inches*. Length, 4 ft. to 6 ft.
- (c) If the length of such joist be more than *six feet*, but not more than *eight feet*, its depth shall be *four and a half inches*, and its thickness *two and a half inches*. Length, 6 ft. to 8 ft.
- (d) If the length of such joist be more than *eight feet*, but not more than *ten feet*, its depth shall be *five inches*, and its thickness *two and a half inches*. Length, 8 ft. to 10 ft.
- (e) If the length of such joist be more than *ten feet*, but not more than *twelve feet*, its depth shall be *six inches*, and its thickness *two and a half inches*. Length, 10 ft. to 12 ft.
- (f) If the length of such joist be more than *twelve feet*, but not more than *fourteen feet*, its depth shall be *seven inches*, and its thickness *two and a half inches*. Length, 12 ft. to 14 ft.
- (g) If the length of such joist be more than *fourteen feet*, but not more than *fifteen feet*, its depth shall be *seven inches*, and its thickness *three inches*. Length, 14 ft. to 15 ft.
- (h) If the length of such joist be more than *fifteen feet*, but not more than *seventeen feet*, its depth shall be *seven and a half inches*, and its thickness *three inches*. Length, 15 ft. to 17 ft.
- (i) If the length of such joist be more than *seventeen feet*, but not more than *nineteen feet*, its depth shall be *eight inches*, and its thickness *three inches*. Length, 17 ft. to 19 ft.
- (j) If the length of such joist be more than *nineteen feet*, but not more than *twenty-one feet*, its depth shall be *nine inches*, and its thickness *three inches*. Length, 19 ft. to 21 ft.
- (k) If the length of such joist be more than *twenty-one feet*, but not more than *twenty-three feet*, its depth shall be *ten inches*, and its thickness *three inches*. Length, 21 ft. to 23 ft.
- (l) If the length of such joist be more than *twenty-three feet*, Length, over 23 ft.

such joist shall be of such greater strength as shall be sufficient to secure proper stability.

Common
joists (ware-
house
buildings).

(2.) *Subject as hereinafter provided,** such person shall if such building be a building of the warehouse class, cause every common joist to be of not less depth and thickness than the following, that is to say,—

Length, up
to 4 ft.

(a) If the length[†] of such joist be not more than *four feet*, its depth shall be *four and a half inches*, and its thickness *three inches*.

Length, 4 ft.
to 6 ft.

(b) If the length of such joist be more than *four feet*, but not more than *six feet*, its depth shall be *six inches*, and its thickness *three inches*.

Length, 6 ft.
to 9 ft.

(c) If the length of such joist be more than *six feet*, but not more than *nine feet*, its depth shall be *eight inches*, and its thickness *three inches*.

Length, 9 ft.
to 12 ft.

(d) If the length of such joist be more than *nine feet*, but not more than *twelve feet*, its depth shall be *ten inches*, and its thickness *three inches*.

Length, 12 ft.
to 15 ft.

(e) If the length of such joist be more than *twelve feet*, and not more than *fifteen feet*, its depth shall be *eleven inches*, and its thickness *three inches*.

Length, 15 ft.
to 18 ft.

(f) If the length of such joist be more than *fifteen feet*, but not more than *eighteen feet*, its depth shall be *thirteen inches*, and its thickness *three and a half inches*.

Length, 18 ft.
to 20 ft.

(g) If the length of such joist be more than *eighteen feet*, but not more than *twenty feet*, its depth shall be *thirteen inches*, and its thickness *four inches*.

Length, over
20 ft.

(h) If the length of such joist be more than *twenty feet*, such joist shall be of such greater strength as shall be sufficient to secure proper stability.

Trimmer and
trimming
joists
(domestic
buildings).

(3.) *Subject as hereinafter provided,** such person shall, if such building be a domestic building, cause every trimmer

* See note † on p. 210.

† "Length" is defined on p. 205.

joist receiving or carrying not more than six common joists, and every trimming joist receiving or carrying any such trimmer joist at a distance not greater than *three feet* from its bearing on the wall, to be of a depth* not less than the depth, and of a thickness at least *one inch* greater than the thickness hereinbefore required in the case of a domestic building for a common joist of the same length.

He shall not cause the extra thickness to be added in a separate scantling, but shall cause such trimmer or trimming joist to be solid throughout.

He shall not cause any trimmer joist for an opening in connection with a flue or fireplace, to receive or carry more than six common joists.

He shall cause every trimmer joist receiving or carrying more than six common joists, and every trimming joist receiving or carrying such trimmer, to be of such greater strength* as shall be sufficient to secure proper stability.

- (4.) *Subject as hereinafter provided*,† such person shall, if such building be a building of the warehouse class, cause every trimmer joist receiving or carrying not more than six common joists, to be of a depth not less than the depth, and of a thickness at least *one quarter of an inch* greater for each common joist which it receives or carries, than the thickness hereinbefore required, in the case of a building of the warehouse class, for a common joist of the same length.

Trimmer and
trimming
joists
(warehouse
buildings).

He shall cause every trimming joist receiving or carrying any such trimmer joist, at a distance not greater than *three feet* from its bearing on the wall, to be of a depth not less than the depth, and of a thickness at least *one inch and a half* greater than the thickness hereinbefore required, in the case of a building of the warehouse class, for a common joist of the same length.

He shall not cause the extra thickness to be added in a separate scantling, but shall cause such trimmer or trimming joist to be solid throughout.

- (5.) *Subject as hereinafter provided*,† such person shall, if such building be a domestic building, cause every beam or

Beams, etc.
(domestic
buildings).

* "Depth" and "strength" are defined on p. 205.

† See note † on p. 210.

girder supporting such floor, and not supporting any wall, pier, or other such load, to be in every part of not less depth* and thickness than the following, that is to say,—

Length, up
to 10 ft.

- (a) If the length* of such beam or girder be not more than *ten feet*,
its depth shall be *nine inches*, and
its thickness *six inches*.

Length, 10 ft.
to 12 ft.

- (b) If the length of such beam or girder be more than ten feet, but not more than *twelve feet*,
its depth shall be *ten inches*, and
its thickness *seven inches*.

Length, 12 ft.
to 14 ft.

- (c) If the length of such beam or girder be more than *twelve feet*, but not more than *fourteen feet*,
its depth shall be *eleven inches*, and
its thickness *eight inches*.

Length, 14 ft.
to 16 ft.

- (d) If the length of such beam or girder be more than *fourteen feet*, but not more than *sixteen feet*,
its depth shall be *twelve inches*, and
its thickness *nine inches*.

Length, over
16 ft.

- (e) If the length of such beam or girder be more than *sixteen feet*, such beam or girder shall be of such greater strength as shall be sufficient to secure proper stability.

Beams, etc.
(warehouse
buildings).

- (6.) *Subject as hereinafter provided*,† such person shall, if such building be a building of the warehouse class, cause every beam or girder supporting such floor, and not supporting any wall, pier, or other such load, to be in every part of not less depth* and thickness than the following, that is to say,—

Length, up
to 10 ft.

- (a) If the length* of such beam or girder be not more than *ten feet*,
its depth shall be *twelve inches*, and
its thickness *ten inches*.

Length, 10 ft.
to 12 ft.

- (b) If the length of such beam or girder be more than *ten feet*, but not more than *twelve feet*,
its depth shall be *thirteen inches*, and
its thickness *eleven inches*.

* "Depth" and "length" are defined on p. 205.

† See note † on p. 210.

- (c) If the length of such beam or girder be more than *twelve feet*, but not more than *fourteen feet*, its depth shall be *fourteen inches*, and its thickness *twelve inches*. Length, 12 ft. to 14 ft.
- (d) If the length of such beam or girder be more than *fourteen feet*, but not more than *sixteen feet*, its depth shall be *fifteen inches*, and its thickness *thirteen inches*. Length, 14 ft. to 16 ft.
- (e) If the length of such beam or girder be more than *sixteen feet*, such beam or girder shall be of such greater strength* as shall be sufficient to secure proper stability. Length, over 16 ft.

Provided that,—

- (1.) the foregoing requirements of this byelaw as regards the depth and thickness of joists and beams or girders, shall be deemed to be complied with if the person erecting the new building shall cause the several joists and beams or girders to be of at least the same strength* as is required by the byelaw ; and the thickness of the joist, or of the beam or girder, be in no case less than two-thirds of the thickness hereinbefore specified : Floors (joists and beams, etc.).
Proviso for timbers of the same strength,
- (2.) if the joists and beams or girders be laid at a less distance apart than that specified in this byelaw, they may be of proportionately less strength* than is required by the byelaw ; but the thickness of the several joists and beams or girders shall in no case be less than two-thirds of the thickness hereinbefore specified. and for timbers of a less strength.

9.—(1.) Every person who shall erect a new building, and shall construct any floor in such building,— Timbers of certain floors not within the preceding byelaw.

with joists, or joists and beams or girders laid at a greater distance apart than that specified in the foregoing byelaw, but

otherwise in the manner specified in such byelaw, shall cause such joists, or joists and beams or girders to be of proportionately greater strength* than is required by such byelaw ; and

(2.) every person who shall erect a new building, and shall construct any floor in such building—

as a framed floor, or

* “Strength” is defined on p. 205.

as a floor formed with beams at short distances apart, and covered with battens, deals or planks, without joists, or with joists covered with boards, where the joists, or joists and beams or girders are of any kind of wood not being good sound fir or pine ;

shall cause the several timbers of such floor to be of such depth and thickness as to secure proper stability.

Floors
(public and
warehouse
buildings).

10. Every person who shall erect a new public building, or a new building of the warehouse class, shall cause every floor of such building, not being a floor to which any of the foregoing byelaws apply, to be properly constructed of sound and suitable materials and of adequate strength.*

He shall, in the case of a public building, cause the floor of every lobby, passage, corridor, or landing therein which is not intended solely as a means of access to any private apartment, to be constructed of incombustible materials, and carried by supports of incombustible material.

Bridging or
strutting.

11.—(1.) Every person who shall erect a new building, and shall construct any floor in such building of joists covered with boards, shall, where the length* of the joists exceeds *seven feet* and does not exceed *twelve feet*, cause at least *one row* of square bridging or herring-bone strutting to be constructed between the joists :

Where the length of the joists exceeds *twelve feet* and does not exceed *eighteen feet*, he shall cause at least *two rows* of square bridging or herring-bone strutting to be so constructed ; and

Where the length of the joists exceeds *eighteen feet*, he shall, for every *six feet* or part of six feet over eighteen feet, cause at least one additional row of square bridging or herring-bone strutting to be so constructed.

(2.) He shall cause any such bridging to be formed of good sound and suitable timber, and to be of a depth* equal to the depth of the joists, and of a thickness not less than *one and a half inch*.

(3.) He shall cause any such strutting to be formed of good sound and suitable timber, of a depth not less than *two inches*, and of a thickness not less than *one and a quarter inch*.

* "Strength," "length," and "depth," as applied to timbers, are defined on p. 205.

12. Every person who shall erect a new domestic building, and shall in such building construct any boarded floor, shall cause such floor to be laid with boards not less than *seven-eighths of an inch* in actual thickness: provided that in the case of a room which is intended to be used as a sleeping-room only, the floor may be laid with boards not less than *three-quarters of an inch* in actual thickness.

Floor boards
(domestic
buildings).

HEARTHES.

13. Every person who shall construct a hearth in a building shall cause such hearth to be of stone, slate, tiles, or other incombustible substance, and to be laid level with the upper surface of the floor adjacent to such hearth.

Hearths.

He shall cause such hearth to be at least *six inches* longer on each side than the width of the chimney opening in front of which it is placed, and to extend outwards from the chimney breast to a distance of at least *sixteen inches*.

He shall cause such hearth to be bedded wholly on brick, stone, concrete, or other incombustible substance, extending to a depth of not less than *six inches* from the upper surface of the hearth, and to be properly supported upon bearers of stone or iron, or upon brick trimmers or other incombustible materials: provided that if such hearth be in the lowest storey of the building, he may cause such hearth to be bedded on the solid ground.

STAIRCASES.

14. Every person who shall erect a new domestic building, and shall construct any staircase therein, shall comply with the following requirements, that is to say,—

Staircases
(domestic
buildings).

(1.) He shall cause the woodwork of every flight of stairs in such staircase to be of not less than the following thicknesses, namely,—

(a) the strings shall be not less than *one inch and a quarter* in thickness:

(b) the treads shall be not less than *one inch* in thickness:

(c) the risers shall be not less than *three-quarters of an inch* in thickness.

(2.) He shall cause the treads to be not less than *seven inches* in width, measured horizontally, from face of riser to face of riser, and the risers to be not more than *nine*

inches in height, measured vertically from top of tread to top of tread.

- (3.) He shall cause such staircase to be provided with a sufficient handrail properly and securely fixed.

Staircases
(public and
warehouse
buildings).

15. Every person who shall erect a new public building, or a new building of the warehouse class, and shall construct any staircase therein, shall cause every flight of stairs in such staircase to be properly constructed of sound and suitable materials, and to be securely fixed, and of adequate strength.

He shall, in the case of a public building, cause every flight of stairs in such staircase which is not intended solely as a means of access to any private apartment, to be constructed of incombustible materials and carried by supports of incombustible material, and to be furnished on each side with a sufficient handrail properly and securely fixed.

He shall, in the case of a public building, cause every flight of stairs in such staircase which is intended solely as a means of access to any private apartments, to be provided with a sufficient handrail properly and securely fixed.

HEIGHT OF ROOMS.

Height of
rooms.

16. Every person who shall erect a new building shall construct every room in such building which shall be intended to be used for human habitation, in accordance with such of the following regulations as may be applicable to the circumstances of the case, that is to say,—

- (1.) Every such room which is an attic, or a room wholly or partly in the roof of such building, shall, over at least *two-thirds* of the area of the floor, be not less than *eight feet six inches* in height, and shall not in any part be less than *five feet* in height :
- (2.) Every such room which is not an attic, or a room wholly or partly in the roof of such building, shall not in any part be less than *eight feet* in height.

Height of rooms.—The form of byelaw here suggested prescribes conditions which should, wherever practicable, be fulfilled in the case of a room intended for human habitation. The chief value of such a clause consists in its application to attic rooms, where, as regards air-space and ventilation, insanitary conditions are more likely to prevail than in rooms which are constructed with flat ceilings. The aim should be to secure an *average height* of about *eight feet* at least over the entire area of the floor ; and this should be obtained without the ceiling being allowed to slant away in any

part of the room to less than *five feet* from the floor. The byelaw, as framed, gives an average height of *seven feet eleven inches* for such rooms. At the same time, if it were considered that the suggested provisions would be too restrictive, the Local Government Board might be disposed to entertain a proposal such as *eight feet* over *two-thirds* of the area of the floor, or *eight feet six inches* over *one-half*, retaining the minimum of *five feet* in any case.

With respect to the paving of yards and open spaces in connection with dwelling-houses.

[After
IV. (58)]

17. The owner of every dwelling-house in connection with which there is any yard or open space shall, where it is necessary for the prevention or remedy of insanitary conditions that all or part of such yard or open space shall be paved, forthwith cause the same to be properly paved with a hard, durable, and impervious pavement of flagging or paving bricks evenly and closely laid upon a sufficient bed of good concrete, mortar, or other suitable material, and properly jointed, or with good cement concrete, or with good asphalt on a proper foundation, and so sloped to a properly constructed channel as effectually to carry off all rain or waste water therefrom.

Paving of
yards, etc.

18. Every person who shall erect a new dwelling-house shall cause not less than *one hundred and fifty square feet* of any open space, provided in connection therewith, to be paved with a hard, durable, and impervious pavement of flagging or paving bricks, evenly and closely laid upon a sufficient bed of good concrete, mortar, or other suitable material, and properly jointed, or with good cement concrete, or with good asphalt on a proper foundation, and so sloped to a properly constructed channel as effectually to carry away all rain and waste water that may fall thereon.

He shall cause such paving to be so arranged that it shall adjoin the external wall in the rear or at the side of the dwelling-house, that, wherever practicable, it shall extend throughout to a distance of *ten feet* from the said wall, and that, subject to this last-mentioned requirement, it shall extend as nearly as conveniently may be to the full width of the open space.

For the purposes of this byelaw the expression “width” means, in the case of paving in the rear, a measurement taken parallel to the rear external wall of the dwelling-house, and, in the case of paving at the side, a measurement taken at right angles to the side external wall on which such paving may abut :

Provided always, that, in the case of any dwelling-house, the height of which is less than *fifteen feet* as measured from the

level of the open space to the level of half the vertical height of the roof or to the top of the parapet, whichever may be the higher, any part of an open space provided in pursuance of any byelaw in that behalf which is occupied by any watercloset, earthcloset, or privy, and by any ashpit may be reckoned as if it were paved, if the remainder of such open space is paved in accordance with this byelaw.

Paving of yards.—Clauses 17 and 18 have been suggested by the Local Government Board for adoption in cases where the local authority propose to make byelaws on the subject. The first is applicable more particularly to existing, and the second to new houses. The local authority are recommended to adopt both. The terms of s. 23 (1) of the Public Health Acts Amendment Act, 1890, preclude the extension of the clauses to yards and open spaces in connection with buildings other than “dwelling-houses.”

[After
IV. (92).]

With respect to the keeping waterclosets supplied with sufficient water for flushing.

Flushing of
waterclosets.

19. The occupier of any premises shall, throughout any period during which any person may inhabit the premises, or may be employed therein in any manufacture, trade, or business, cause every watercloset provided on or in connection with the premises to be supplied with a sufficient quantity of water for the proper flushing of such watercloset :

Provided that, where there are two or more occupiers of the premises on or in connection with which any such watercloset is provided, the foregoing requirement shall apply to such one or more of the said occupiers as, according to the terms and conditions of his or their occupation of the premises, may have the exclusive or joint control of the watercloset.

This byelaw shall apply to any building in or for which a watercloset is for the time being provided, whether such building is a building erected before or after the times mentioned in section 157 of the Public Health Act, 1875.

Flushing of waterclosets.—The byelaw in this case is one suggested by the Local Government Board (cf. p. 190). It is framed so as to apply to the occupier, rather than the owner, because the flushing of waterclosets is a matter requiring constant attention, and the owner would not be on the spot to perform the duty. The clause will extend to waterclosets in connection with buildings erected before, as well as after, the times mentioned in s. 157 of the Public Health Act, 1875.

Flushing apparatus and water supply.—The provision of flushing apparatus will be secured and regulated, where the model byelaws (Series IV.) are in force, by clause 69 of that series (see p. 139) : the matter is beyond the

scope of byelaws under s. 23 of the Public Health Acts Amendment Act, 1890 ; and, it may be added, there is no authority in that section for a byelaw requiring a supply of water to be *laid on* for flushing purposes.

As to the deposit of plans by persons intending to lay out streets. [After IV. (94).]

20. Every person who shall intend to lay out a street intended to form the principal approach or means of access to any building, shall show on every plan of such street which, in pursuance of any byelaw in that behalf, he may be required to deliver or send to the clerk or surveyor of the council, the secondary means of access proposed to be provided in connection with the laying out of such street, where necessary for the removal of house refuse and other matters. Deposit of plans.

Deposit of plans showing secondary means of access.—Clause 7 of the model series (IV.) of the Local Government Board regulates the width of secondary means of access, when provided in the form of a “back street”; and persons intending to lay out back streets are required by clause 94 of the same series to deposit plans. But inasmuch as the secondary means of access required by clause 3 of the present series may be provided in some form other than that of a back street (see note, pp. 205, 206), some provision is necessary for securing that, when a “front” street is to be laid out, the plans which have to be deposited in that case also under clause 94 of Series IV. shall show whether the secondary means of access contemplated are suitable and sufficient. Clause 20 above effects this.

For preventing buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws. [After IV. (100).]

21. A person shall not alter any building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected, in such a way that the building, if at first so constructed, would have contravened such byelaws. Alteration of buildings.

Alteration of buildings.—Clause 21 of this series and the subsidiary clauses as to the giving of notices, deposit of plans, etc., which follow, adhere closely to the terms of the enactment in s. 23 (4) of the Public Health Acts Amendment Act, 1890, authorising the byelaws. No attempt should be made to define by the byelaws what will constitute a “new building,” and what may be regarded merely as an “alteration” of a building. This is a question to be decided in the first instance, if necessary, by the justices, in connection with any proceedings that may be taken to enforce the byelaws. Reference may be made, however, to the provisions of s. 159 of the Public Health Act, 1875. If, of course, the “alterations” are of such

a nature as to constitute a new building, the person making the alterations may be subject to more recent byelaws than those in accordance with which the building was originally erected; and this is important when the effect of s. 326 of the Public Health Act, 1875, is borne in mind. It will be seen that byelaws made long before 1875 may be “byelaws made under the Public Health Acts,” within the meaning of s. 23 (4) of the Act of 1890.

Notice of
intention to
alter building.
Deposit of
plans and
sections.

22. Every person who shall intend to alter a building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected in respect of any matter to which such byelaws applied, shall give to the council notice in writing of such intention, which shall be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, and shall at the same time deliver or send, or cause to be delivered or sent to their clerk at his or their office, or to their surveyor at his or their office, complete plans and sections of such intended alteration, which shall be drawn in duplicate, either in ink on tracing cloth, or otherwise in a suitable manner and on suitable material, to a scale of not less than *one inch* to every *eight feet*, and shall show the position, form, and dimensions of the several parts of such building, in or in connection with which such alteration is intended to be made; and in such plan and sections he shall cause such building to be so described as to show whether the building, as proposed to be altered, is intended to be used as a dwelling-house or otherwise.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the council at his or their office, or to their surveyor at his or their office, a description in writing of the materials of or with which it is intended that such alteration shall be constructed.

Such person shall at the same time deliver or send, or cause to be delivered or sent to the clerk to the council at his or their office, or to their surveyor at his or their office, a block plan of such intended alteration which shall be drawn in duplicate, either in ink on tracing cloth, or otherwise in a suitable manner and on suitable material, to a scale of not less than *one inch* to every *forty-four feet*; and he shall show on such block plan, so far as may be necessary, the position of the buildings and appurtenances of the properties immediately adjoining, the width and level of the street in front, and of the street, if any, at the rear of the building intended to be altered, the level of the lowest floor of such building, and of any yard or open space belonging thereto, and if such alteration will involve building over any drain, or will in any way affect the construction or user of any drain, the position and line of such drain.

23. Every person who shall intend to alter a building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected, in respect of any matter to which such byelaws applied, shall before beginning to execute any work in connection with such intended alteration, deliver or send, or cause to be delivered or sent to the surveyor of the council at his or their office notice in writing, in which shall be specified the date on which such person will begin to execute such work.

Notice before commencing the work, and before covering up any drain or foundation.

Such person shall also, before proceeding to cover up so much of such work as may comprise any drain or any foundation, deliver or send, or cause to be delivered or sent to the surveyor of the council at his or their office notice in writing, in which shall be specified the date on which such person will proceed to cover up so much of such work.

24. In every case where a person who shall alter a building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected, in respect of any matter to which such byelaws applied, shall, at any reasonable time during the progress or after the completion of the work of alteration of such building, receive from the surveyor of the council notice in writing specifying any matters in respect of which such building as altered by such work, would, if at first so constructed, have contravened such byelaws, and requiring such person within a reasonable time, which shall be specified in such notice, to cause anything done contrary to such byelaws to be amended, or to do anything required by such byelaws to be done and which has been omitted to be done :—

Notice to amend work ;

Such person shall, within the time specified in such notice, comply with the several requirements thereof so far as such requirements relate to matters in respect of which such building, as so altered, would, if at first so constructed, have contravened such byelaws.

Such person, within a reasonable time after the completion of any work which may have been executed in accordance with any such requirement, shall deliver or send, or cause to be delivered or sent, to the surveyor of the council at his or their office notice in writing of the completion of such work, and shall, at all reasonable times within a period of *seven days* after such notice shall have been so delivered or sent, afford such surveyor free access to such work for the purpose of inspection.

and of completion of requirements.

Surveyor to have access to work.

Inspection during progress of work.

Surveyor to have access.

Inspection on completion of work.

Surveyor to have access.

25. Every person who shall alter a building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected, in respect of any matter to which such byelaws applied, shall, at all reasonable times, during the work of alteration, afford the surveyor of the council free access to such building for the purpose of inspecting such work.

26. Every person who shall alter a building erected in accordance with byelaws made under the Public Health Acts which were in force at the time when such building was erected, in respect of any matter to which such byelaws applied, shall, within a reasonable time after the completion of the work of alteration, deliver or send, or cause to be delivered or sent, to the surveyor of the council, at his or their office, notice in writing of the completion of such work, and shall, at all reasonable times, within a period of *seven days* after such notice shall have been so delivered or sent, afford such surveyor free access to such building for the purpose of inspecting such work.

Giving of notices, deposit of plans and sections, etc.—It is assumed that clauses similar to the Local Government Board's model byelaws as to these matters (numbers 94 to 100 in Series IV., both inclusive) have been, or will be adopted by the local authority. An additional clause (No. 20) is suggested above, in connection with the requirements of clause 3 of the present series, and to this are now added clauses applicable to the alteration of buildings. The power to provide for the observance of byelaws under s. 23 (4) of the Public Health Acts Amendment Act, 1890, by enacting therein such provisions as are necessary with regard to the giving of notices, etc., may be inferred from the fact that the whole of the section (including sub-section (4)) is treated by the Act as an "extension" of s. 157 of the Act of 1875, which expressly authorises the enactment of such provisions.

[After
IV. (100).]
Penalties.

Penalties.

27. Every person who shall offend against any of the foregoing byelaws shall be liable for every such offence to a penalty of *five pounds*, and in the case of a continuing offence to a further penalty of *forty shillings* for each day after written notice of the offence from the council:

Provided, nevertheless, that the justices or court before whom any complaint may be made or any proceedings may be taken in respect of any such offence may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this byelaw.

Penalties.—See note on p. 169. Where the present series is combined with Series IV. of the Local Government Board, strike out clause 101 of the latter series and retain the clause above, as here placed.

As to the power of the council to remove, alter, or pull down any work begun or done in contravention of certain byelaws. [After IV. (100).]

28. Subject as hereinafter provided, if any work to which any of the foregoing byelaws may apply, be begun or done in contravention of any such byelaw, the person by whom such work shall be so begun or done, by a notice in writing, which shall be signed by the clerk to the council, and shall be duly served upon or delivered to such person, shall be required on or before such day as shall be specified in such notice by a statement in writing under his hand or under the hand of an agent duly authorised in that behalf, and addressed to and duly served upon the council, to show sufficient cause why such work shall not be removed, altered, or pulled down ; or shall be required on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised in that behalf before the council and show sufficient cause why such work shall not be removed, altered, or pulled down. Power to pull down work.

If such person shall fail to show sufficient cause why such work shall not be removed, altered, or pulled down, the council shall be empowered, subject to any statutory provision in that behalf, to remove, alter, or pull down such work :

Provided that this byelaw shall not be deemed to apply to the byelaws “for preventing buildings which have been erected in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the byelaws.”

Power to pull down work contravening byelaws.—It will be seen that this clause applies only to work done in contravention of clauses 3 to 20 of the series, the clauses as to the alteration of buildings being expressly excluded from its operation. The power to make byelaws under s. 157 of the Public Health Act, 1875, embodying provisions as to the power of the council to pull down work begun or done in contravention of such byelaws, is made subject to the provisions of s. 158 of that Act ; and the provisions of the latter section are not extended so as to apply to the alteration of buildings. If the present series is combined with Series IV. of the Local Government Board, clause 102 in Series IV. should be omitted, and the above clause retained as placed.

MODEL BYELAWS WITH RESPECT TO THE DRAINAGE OF EXISTING BUILDINGS.

BYELAWS

MADE BY THE* WITH RESPECT TO THE DRAINAGE OF EXISTING
BUILDINGS IN† .

Interpretation of terms.

1. In the construction of these byelaws the following words and expressions shall have the meanings hereinafter respectively assigned to them, unless such meanings be repugnant to or inconsistent with the context or subject-matter in which such words or expressions occur; that is to say,—‡

“Council” means

“Party wall” means

“External wall” means

“Existing building” means any building existing at the time when any work to which the following byelaws relate is undertaken.

“Public building” means

“Dwelling-house” means

Exempted buildings.

2. The following buildings shall be exempt from the operation of these byelaws§

With respect to the drainage of existing buildings.

Construction
of drains.

[See clause 62,

p. 127.]

3.—(1.) Every person who shall construct a drain for the drainage of any existing building shall in the construction of

* “Mayor, aldermen, and burgesses of the borough of , acting by the Council”; or, “Urban [or Rural] District Council of ”; as the case may be.

† Insert name of borough or urban or rural district, or, if the byelaws are to apply to part only of a rural district, “that portion of the Rural District of which comprises the contributory places of ”; as the case may be.

‡ Complete the definitions as in clause 1, pp. 55, 56.

§ Complete this clause following clause 2 on pp. 60 to 62.

such drain use good sound pipes formed of glazed stoneware, heavy cast iron, or other equally suitable material.

(2.) He shall cause such drain to be of adequate size, and, if constructed or adapted to be used for conveying sewage, to have an internal diameter not less than *four inches*, and to be laid with a proper fall, and with water-tight, socketed, or other suitable joints.

(3.) If he shall construct such drain of iron pipes, he shall cause such drain to be properly supported on suitable and sufficient piers or other suitable and sufficient supports, or to be laid in a bed of good concrete.

(4.) If he shall construct such drain otherwise than of iron pipes, he shall cause such drain to be laid in a bed of good concrete.

(5.) He shall not construct such drain so as to pass under any building, except in any case where any other mode of construction may be impracticable.

If he shall construct such drain so as to pass under any building, he shall cause such drain to be so laid in the ground that there shall be a distance equal at the least to the full diameter thereof between the top of such drain at its highest point and the surface of the ground under such building.

He shall also cause such drain to be laid in a direct line for the whole distance beneath such building, and, if constructed otherwise than of iron pipes, to be completely embedded in and covered with good and solid concrete, at least *six inches* thick, all round.

He shall likewise cause adequate means of access to be provided in connection with such drain at each end of such portion thereof as is beneath such building.

(6.) He shall cause every inlet to such drain, not being an inlet provided in pursuance of the byelaw in that behalf as an opening for the ventilation of such drain, to be properly trapped.

4. Every person who shall construct for the drainage of any existing building a drain which may directly communicate with any sewer or other means of drainage into which such drain may lawfully empty, shall provide at a point in such drain as distant as may be practicable from such building and as near as may be practicable to the point at which such drain may be connected with such sewer or other means of drainage a suitable trap.

Drain to be trapped.

[See clause 63, p. 129.]

He shall provide in connection with such trap proper means of access for the purpose of cleansing.

Junction of
drains.

[See clause 64,
p. 131.]

5. A person who shall construct a drain for the drainage of any existing building shall not construct such drain in such a manner as to form with any other drain any right-angled junction. He shall cause every junction which he shall form between such first-mentioned drain and any other drain to be such that the branch or tributary drain shall join the drain into which it empties obliquely in the direction of the flow of such last-mentioned drain.

Ventilation of
drain.

6. Every person who shall construct a drain for the drainage of any existing building shall cause such drain to be provided with suitable and sufficient means of ventilation.

Ventilation of drain.—In connection with the construction of a drain for the drainage of an existing building, it is undesirable to attempt detailed regulations with regard to the ventilation of the drain, on account of the varying requirements of different buildings. The arrangements required by the model byelaws of the Local Government Board in the case of the drains of *new* buildings are contained in clause 65, p. 131.

Inlets to
drain.

[See clause 66,
p. 132.]

7. A person who shall construct a drain for the drainage of any existing building shall not construct such drain in such a manner as to allow any inlet to such drain (except such inlet as may be necessary from the apparatus of any watercloset or any slop sink constructed or adapted to be used for receiving within such building any solid or liquid filth) to be made within such building.

Construction
of soil pipes
and of the
waste pipes
from slop
sinks.

[See clause 66,
p. 135.]

8. Every person who shall construct a soil pipe in connection with any watercloset of an existing building, or a waste pipe from any slop sink constructed or adapted to be used for receiving within any such building any solid or liquid filth, shall comply with such of the following requirements as may be applicable to the circumstances of the case, that is to say,—

He shall cause such soil pipe to be at least *four inches* in diameter.

He shall cause such soil pipe or waste pipe to be fixed outside such building, and to be continued upwards without diminution of its diameter, and (except where unavoidable) without any bend or angle being formed in such soil pipe or waste pipe to such a height and in such a position as to afford, by means of the open end of such soil pipe or waste pipe, an outlet for foul air, at a safe distance from windows, chimneys, and other openings.

He shall so construct such soil pipe that there shall not be any

trap between such soil pipe and the drains, or any trap (other than such as may necessarily form part of the apparatus of any watercloset) in any part of such soil pipe.

9. Every person who shall construct a waste pipe from any bath, sink (not being a slop sink constructed or adapted to be used for receiving any solid or liquid filth), or lavatory, or any other pipe for carrying off foul waste water from any existing building, shall cause such waste pipe or other pipe to be properly trapped and to be taken through an external wall of such building, and to discharge in the open air over a channel leading to a trapped gully grating.

Construction of other waste pipes.
[See clause 66, p. 135.]

10. Every person who shall construct an overflow pipe from any cistern, or from any safe under any bath or water-closet of an existing building shall cause such overflow pipe to be taken through an external wall of such building and to discharge in the open air.

Construction of overflow pipes.
[See clause 66, p. 135.]

As to the giving of notices, and as to inspection by the council.

11. Every person who shall intend to execute any work to which any of the foregoing byelaws may apply, shall before beginning to execute such work, deliver or send, or cause to be delivered or sent to the surveyor of the council at his or their office notice in writing, in which shall be specified the date on which such person will begin to execute such work.

Notice before commencing work.
[See clause 96, p. 164.]

Such person shall also, before proceeding to cover up any drain, deliver or send, or cause to be delivered or sent to the surveyor of the council at his or their office notice in writing, in which shall be specified the date on which such person will proceed to cover up such drain.

Notice before covering up drain.

If such person neglect or refuse to deliver or send any such notice, or to cause any such notice to be delivered or sent to such surveyor, and if such surveyor, on inspecting any such work, finds that such work is so far advanced that he cannot ascertain whether anything required by any of the foregoing byelaws has been done contrary to such byelaw, or whether anything required by such byelaw to be done has been omitted to be done, and if, within a reasonable time after such survey or inspection, such person shall, by notice in writing under the hand of such surveyor, be required, within a reasonable time which shall be specified in such notice, to cause so much of such work as prevents such surveyor from ascertaining whether anything has been done

Failing notice, work may be cut into, laid open, or pulled down.

or omitted to be done as aforesaid to be cut into, laid open, or pulled down to a sufficient extent to enable such surveyor to ascertain whether anything has been done or omitted to be done as aforesaid, such person shall within the time specified in such notice cause such work to be so cut into, laid open, or pulled down.

Notice of con-
travention of
byelaw.

[See clause 97,
p. 166.]

12. In every case:—

Where a person who shall execute any work to which any of the foregoing byelaws may apply, shall, at any reasonable time during the progress, or after the completion of the execution of such work, receive from the surveyor of the council notice in writing specifying any matters in respect of which the execution of such work may be in contravention of any such byelaw, and requiring such person within a reasonable time, which shall be specified in such notice, to cause anything done contrary to any such byelaw to be amended, or to do anything which by any such byelaw may be required to be done but which has been omitted to be done:—

Such person shall, within the time specified in such notice, comply with the several requirements thereof so far as such requirements relate to matters in respect of which the execution of such work may be in contravention of any such byelaw.

Notice of
compliance
with require-
ments of
council.

Such person, within a reasonable time after the completion of any work which may have been executed in accordance with any such requirement, shall deliver or send, or cause to be delivered or sent, to the surveyor of the council, at his or their office, notice in writing of the completion of such work, and shall, at all reasonable times within a period of *seven days* after such notice shall have been so delivered or sent, afford such surveyor free access to such work for the purpose of inspection.

Surveyor to
have access
to the work.

Surveyor to
have access to
work during
progress.

[See clause 98,
p. 167.]

13. Every person who shall execute any work to which any of the foregoing byelaws may apply, shall, at all reasonable times, during the execution of such work, afford the surveyor of the council free access to such work for the purpose of inspection.

Penalties.

14. [Byelaw follows without alteration clause 101, p. 168.]

As to the power of the council to remove, alter, or pull down any work begun or done in contravention of the byelaws.

15. [Byelaw follows without alteration clause 102, p. 169.]

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BYELAW 8.

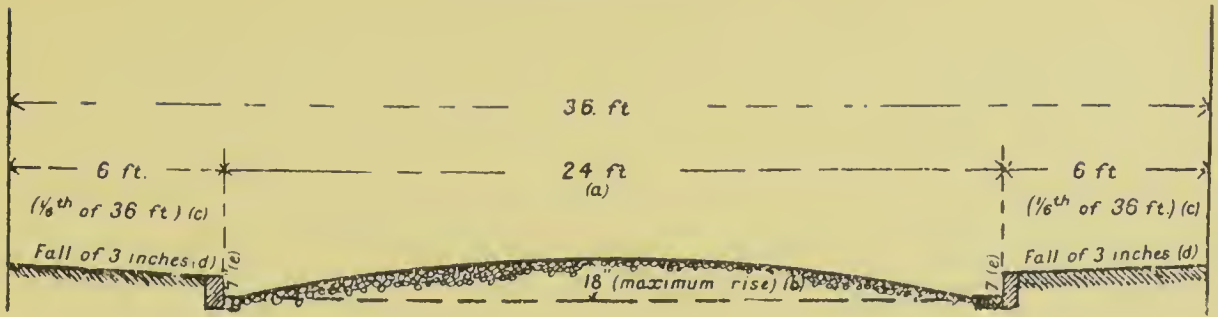
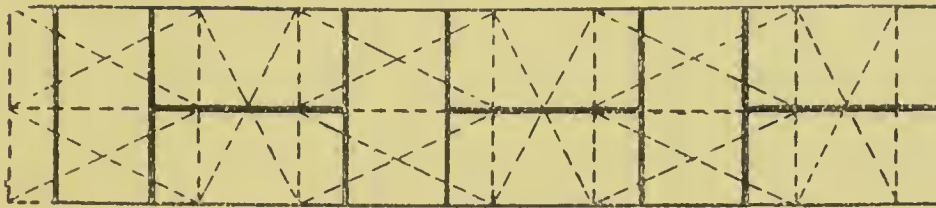


Fig. 1

*Shewing Construction of a 36 ft. street
(with maximum rise permissible).*

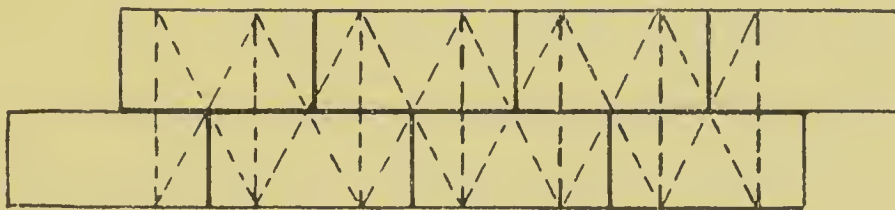
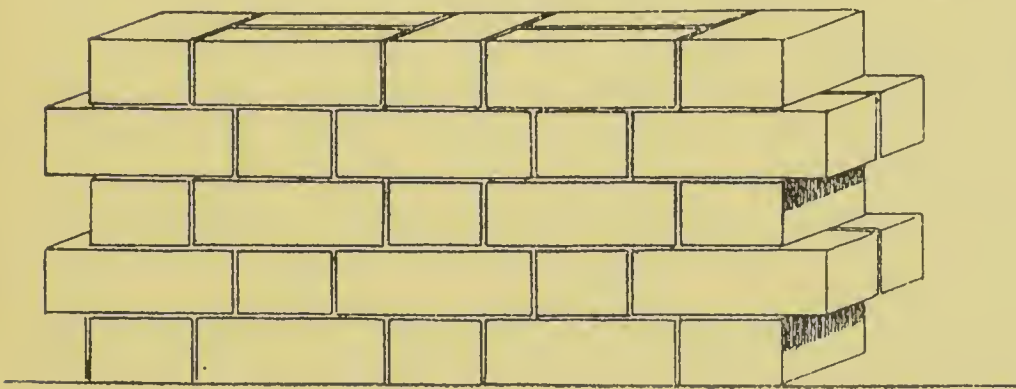
BYELAW 14.



Plan

Fig. 2

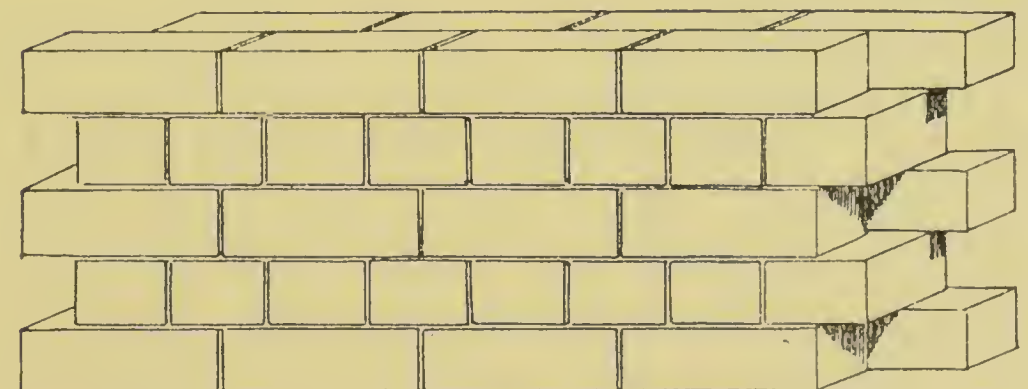
FLEMISH BOND



Plan

Fig. 3

ENGLISH BOND



BYELAW 18.

FOOTINGS.

Fig. 4

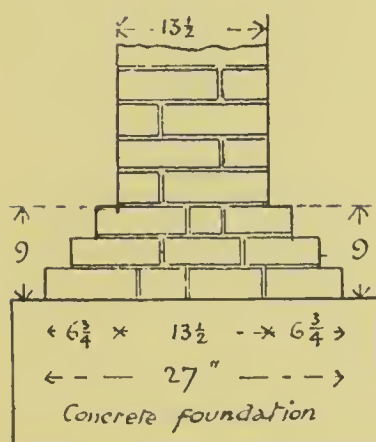


Diagram showing Construction of footings of a 14 in. Wall.

BYELAW 20.

DAMP-PROOF COURSE.

Fig. 5

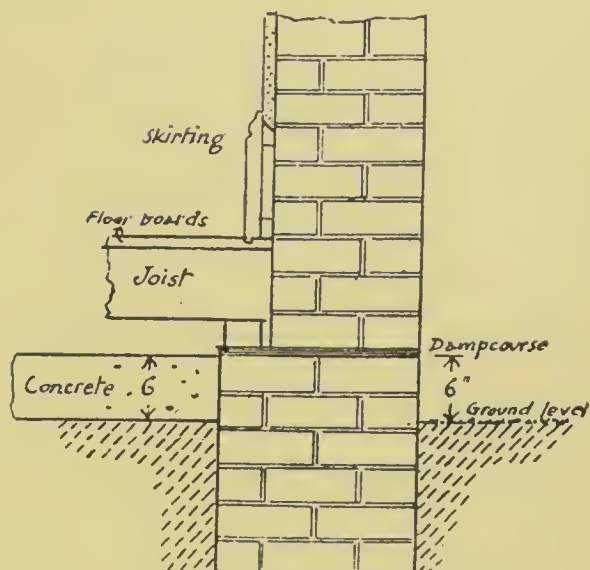


Diagram showing position of Dampcourse.

BYELAW 20.

DAMP-PROOF COURSE.

Fig. 6

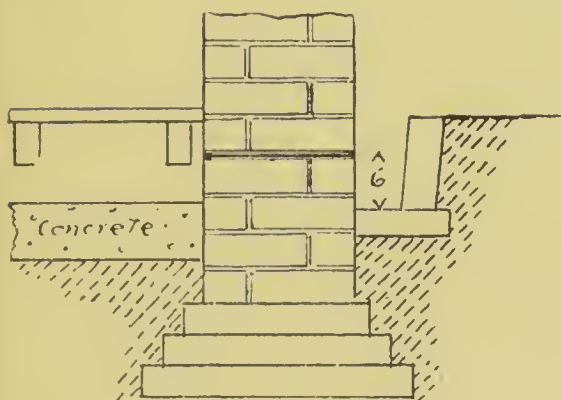


Diagram showing Dampcourse where floor is at or about the same level as the ground outside.

BYELAW 20

(Proviso).

DAMP-PROOF COURSES IN BASEMENT WALL.

Fig. 7.

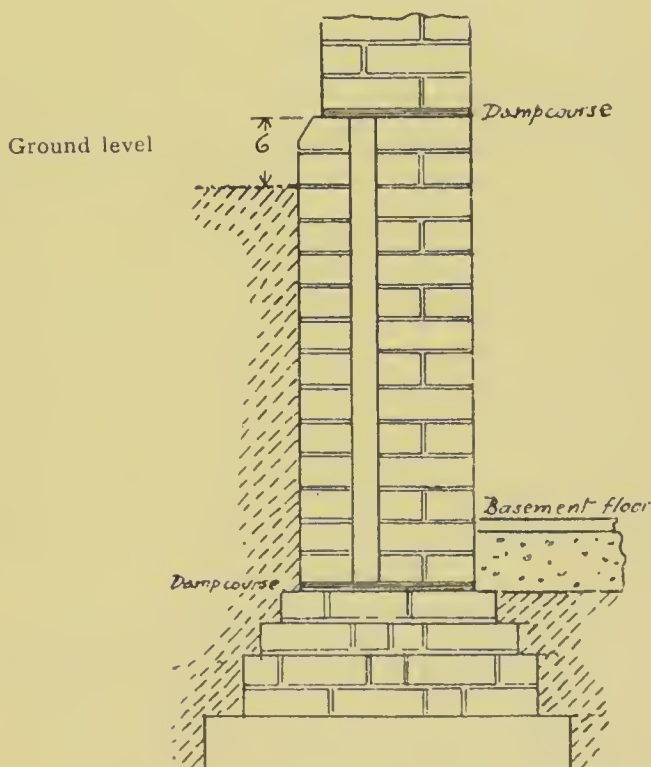


Diagram showing position of Dampcourses where there is a habitable basement, with the ground in contact with the walls,

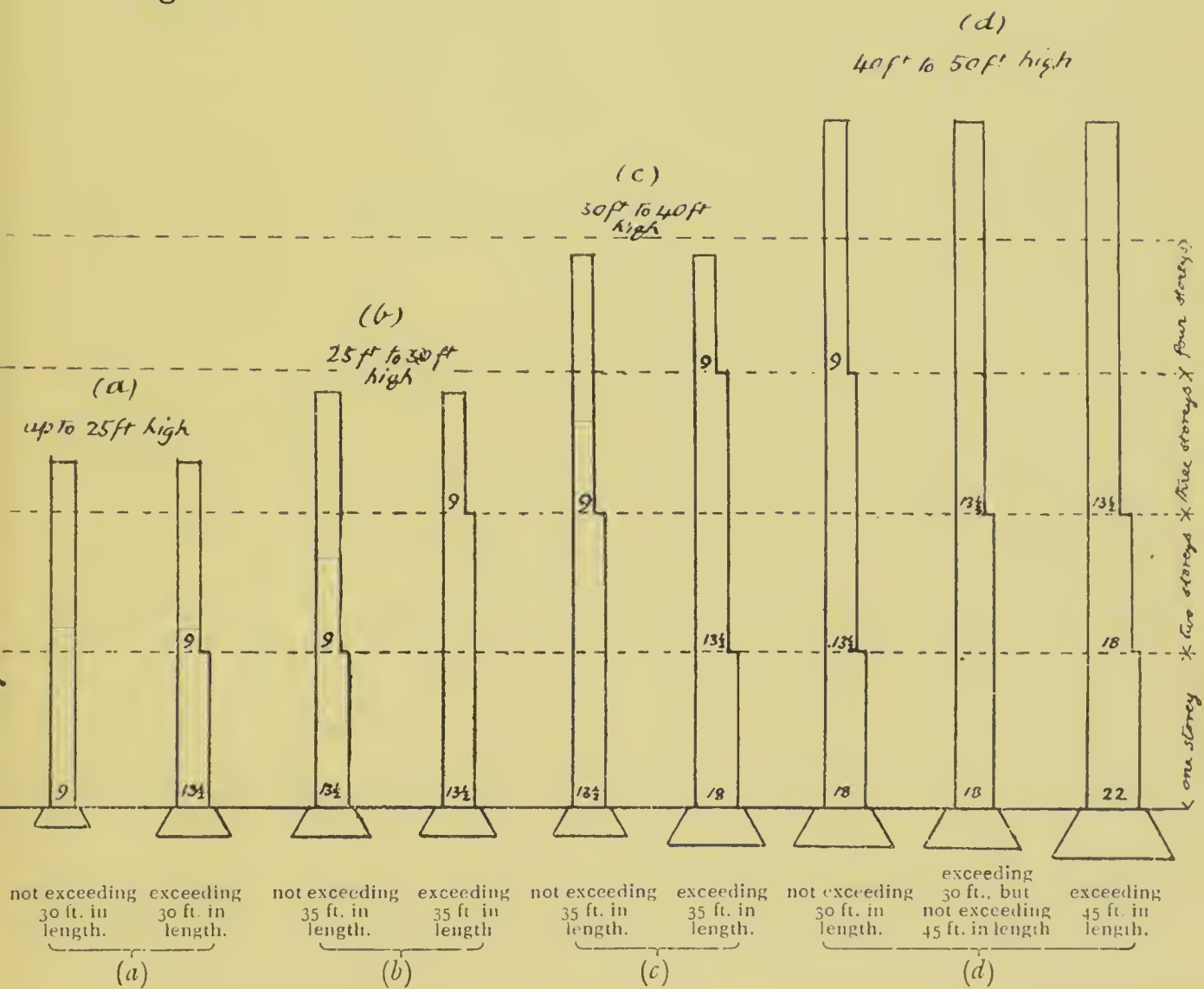
BYELAW 22.

THICKNESS OF WALLS.
DOMESTIC BUILDINGS.

Vertical Scale - 16 ft. to an inch.

Horizontal Scale - 8 ft. to an inch.

Fig. 8



THICKNESS OF WALLS.
DOMESTIC BUILDINGS.

Vertical Scale - 16 ft. to an inch.

Horizontal Scale 8 ft. to an inch

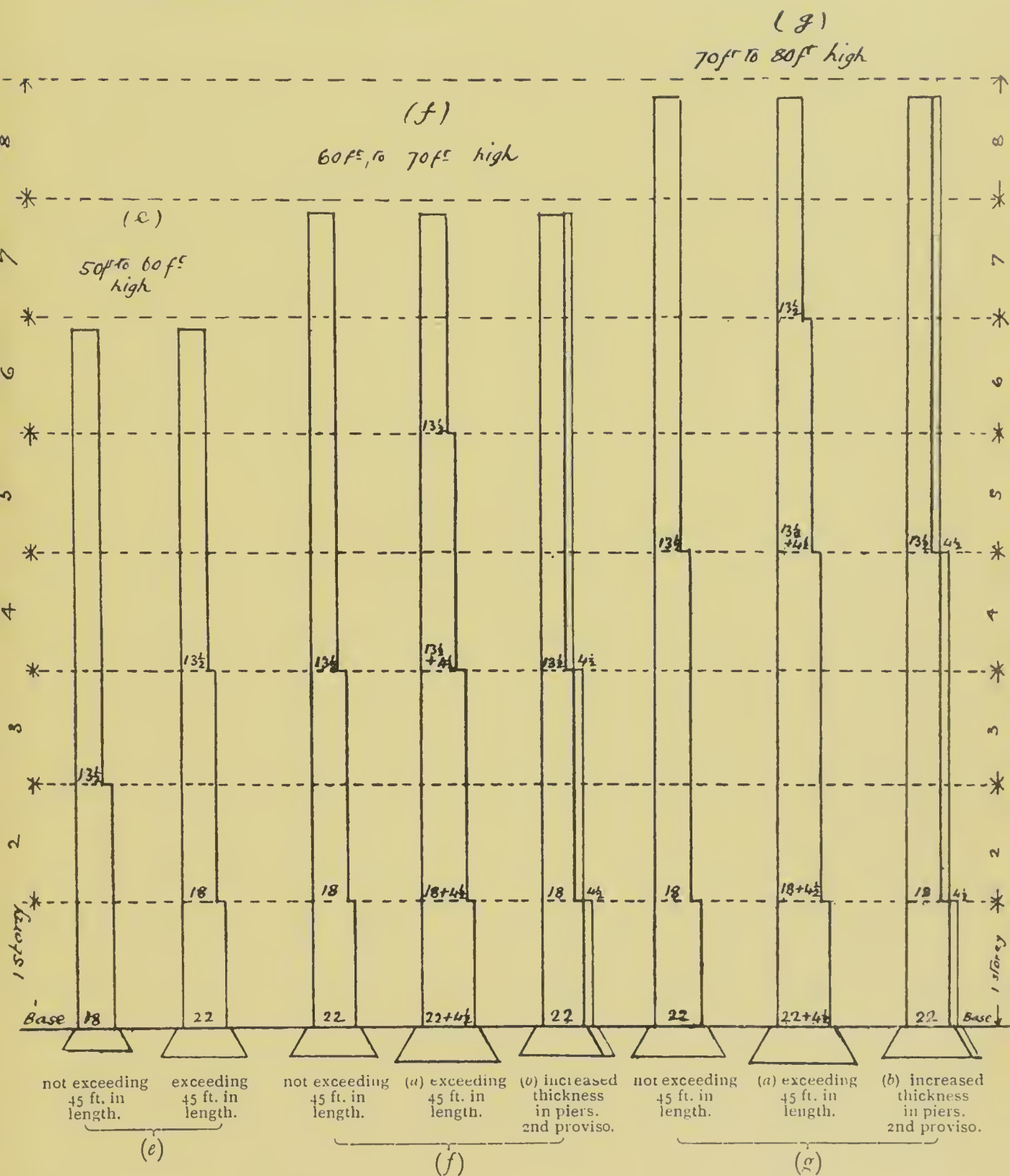


Fig. 10

BYELAW 22.

THICKNESS OF WALLS.
DOMESTIC BUILDINGS.

Vertical Scale - 16 ft. to an inch.

Horizontal Scale 8 ft. to an inch.

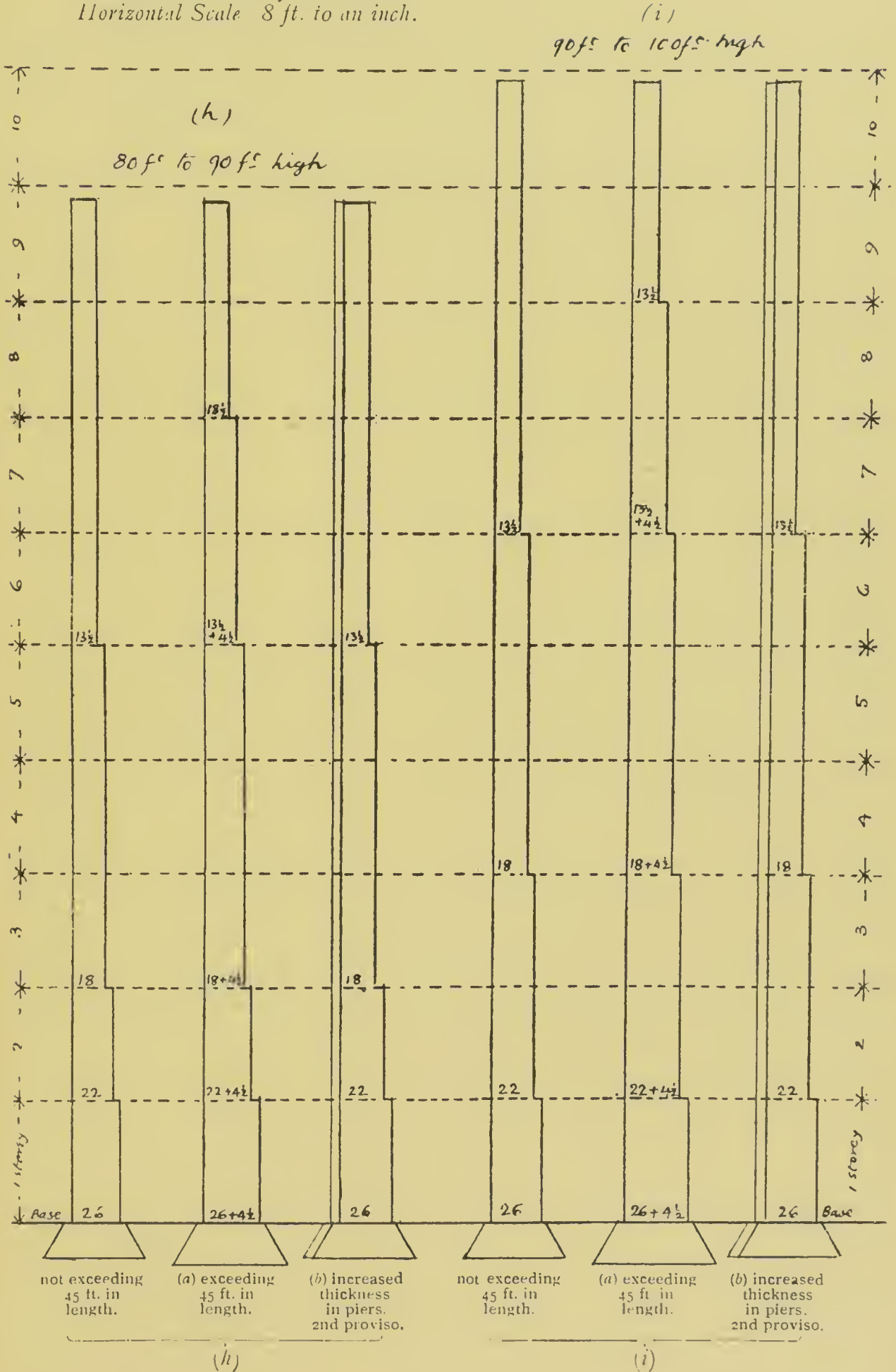
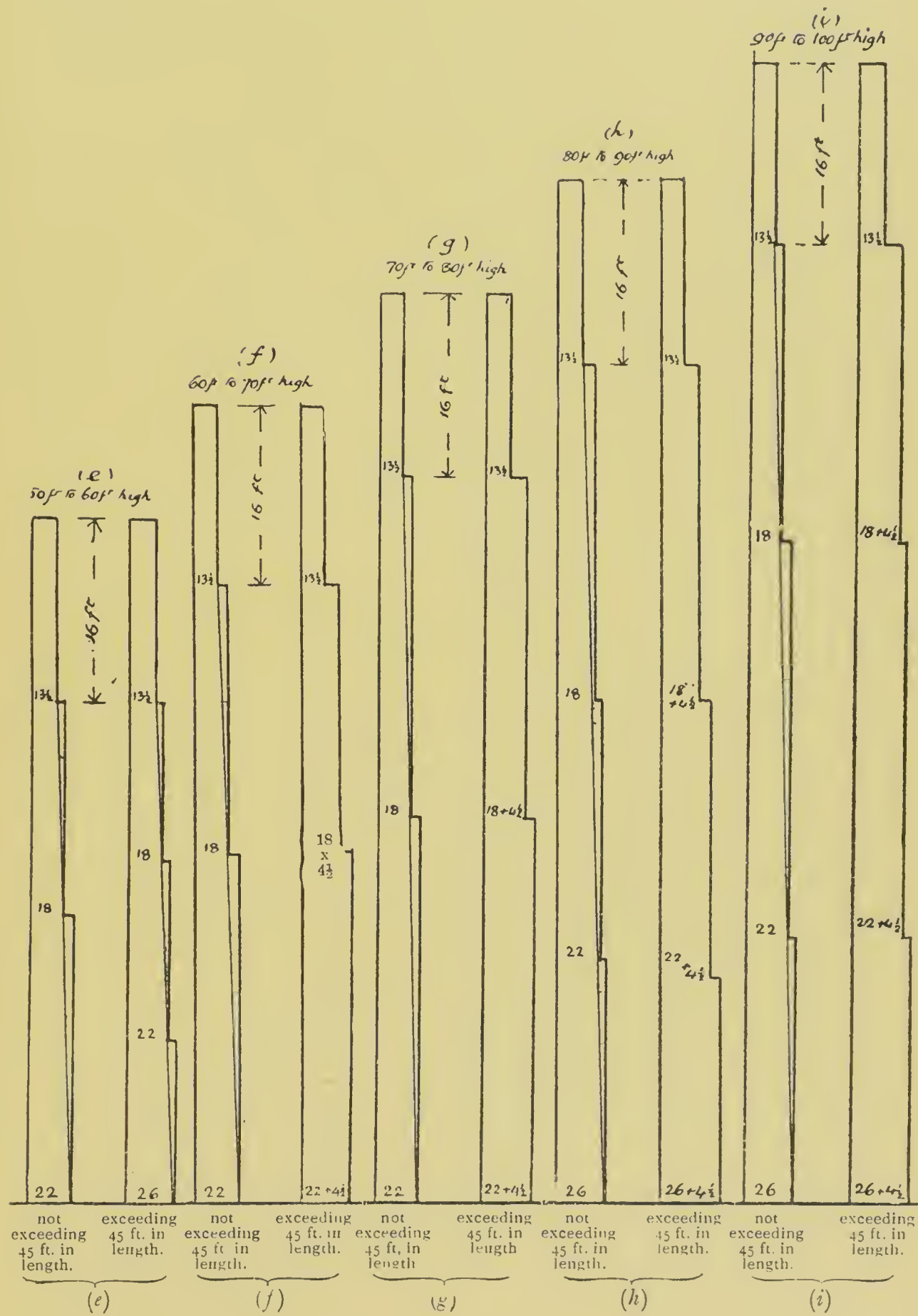


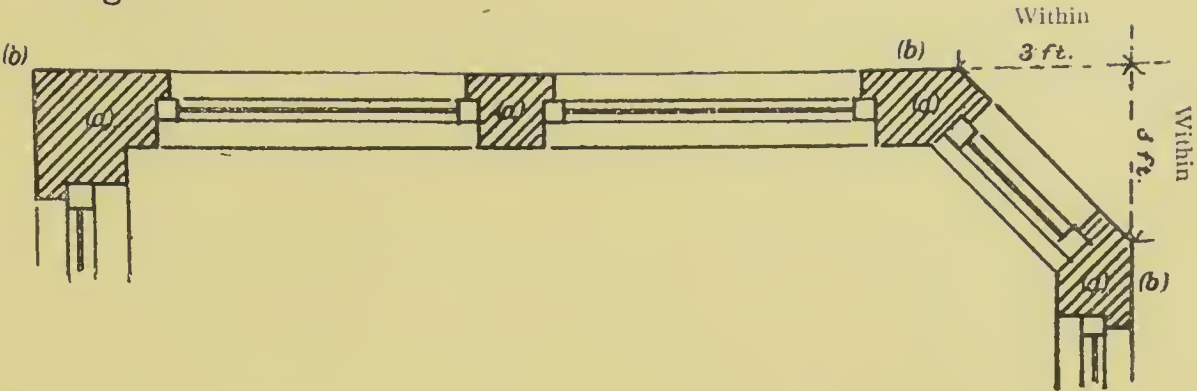
Fig. 12

THICKNESS OF WALLS.
PUBLIC AND WAREHOUSE BUILDINGS.



BYELAW 26 (a) (b).

Fig. 13

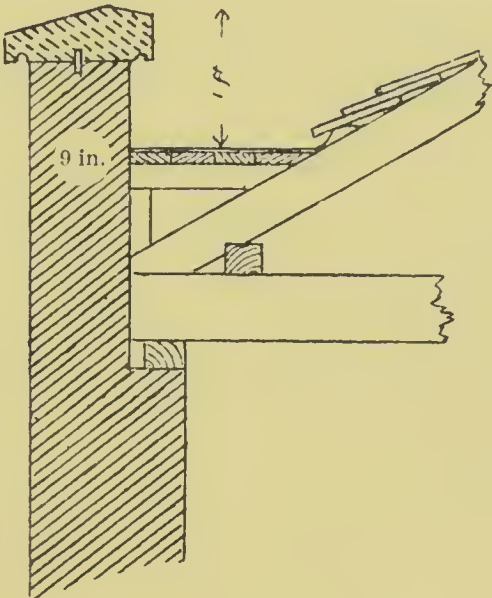


BYELAW 27.

PARAPET TO EXTERNAL WALLS.

Fig. 14

Parapet required in certain cases when distance to any other building is less than 15 ft.



BYELAW 28 (A).

PARAPETS TO PARTY WALLS of Public and Warehouse Buildings and certain Domestic Buildings.

Fig. 15

(Domestic Building exceeding 30 ft. in height.)

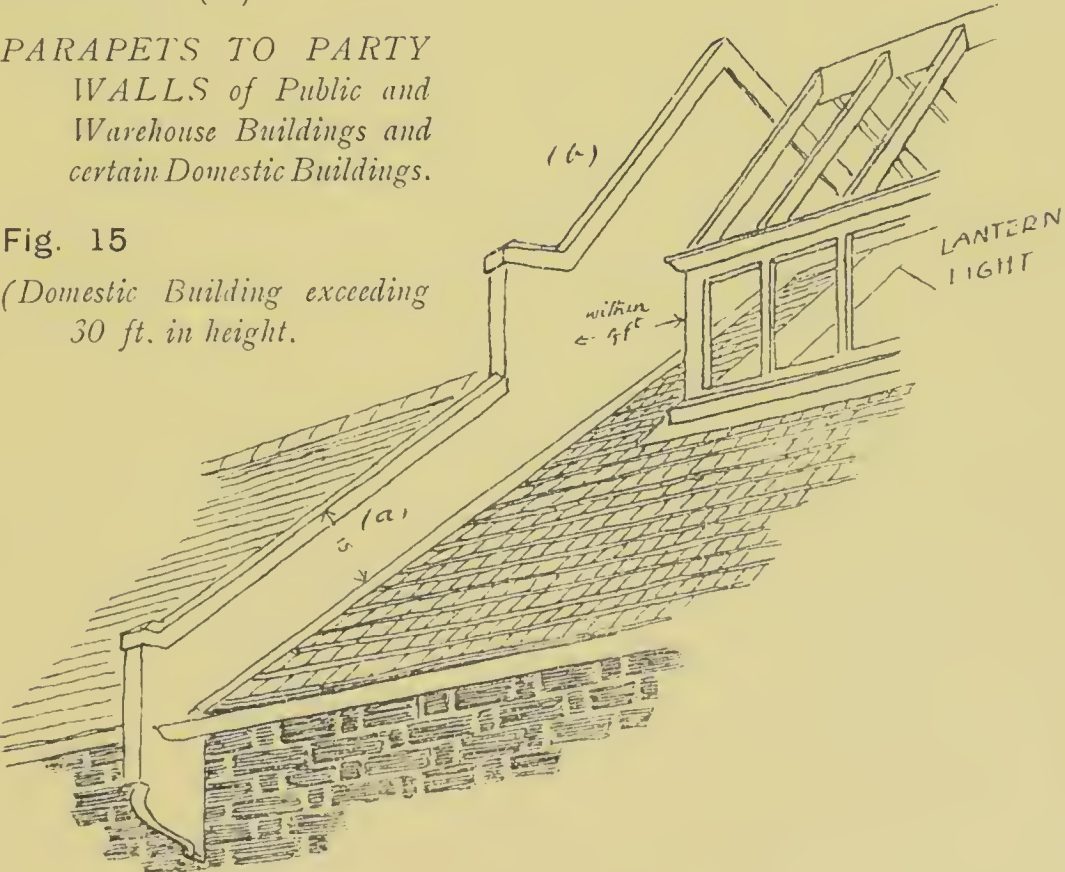


Fig. 16

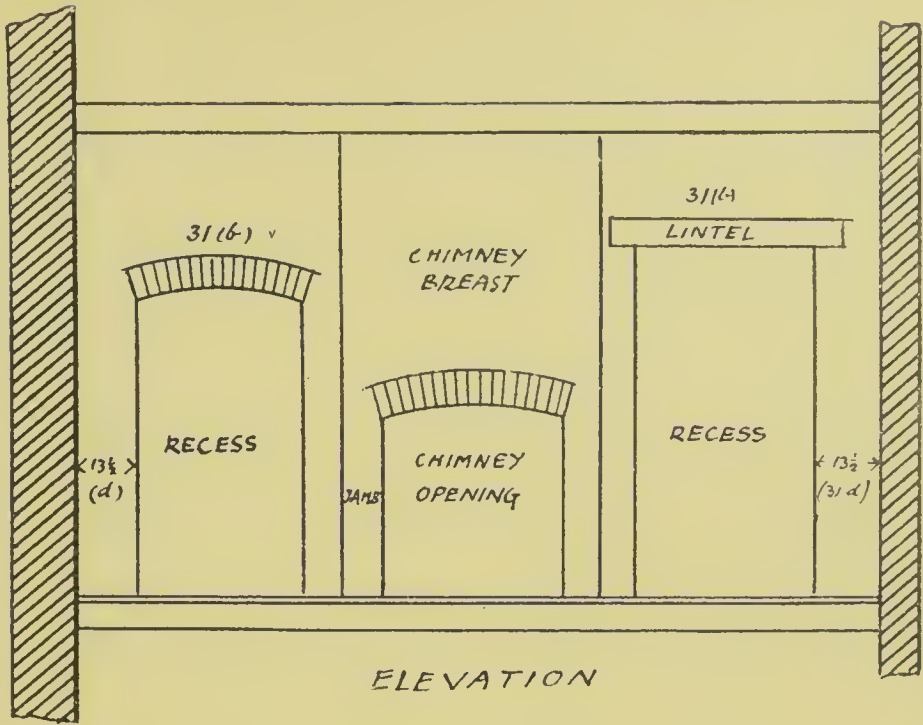
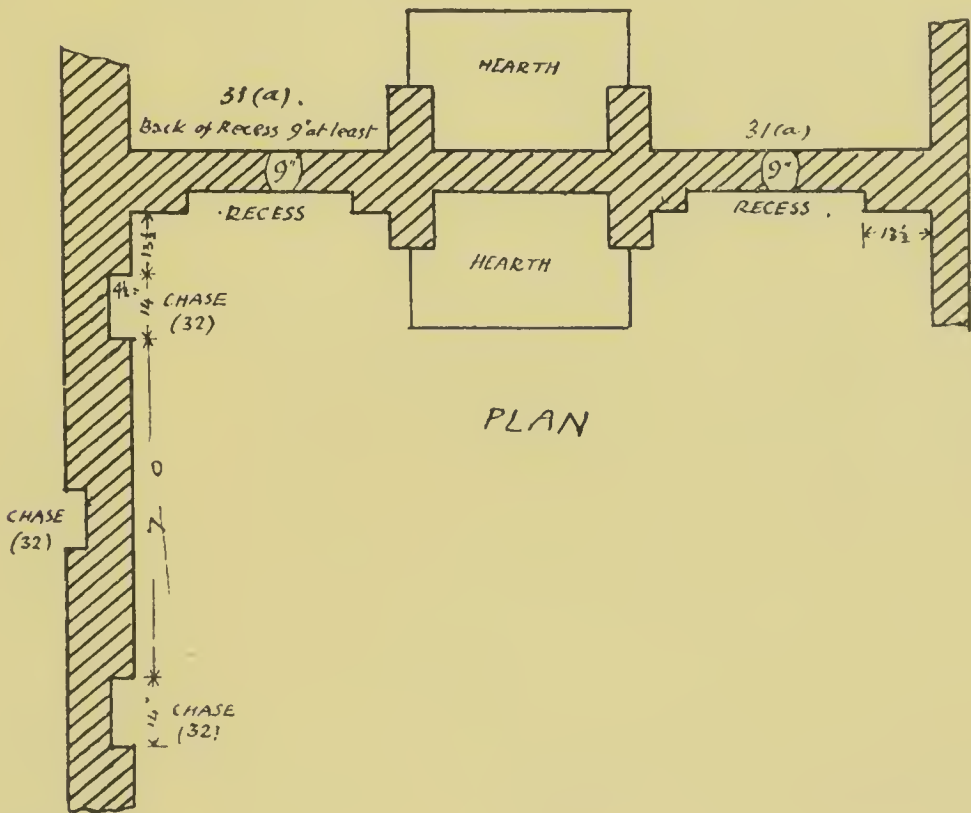
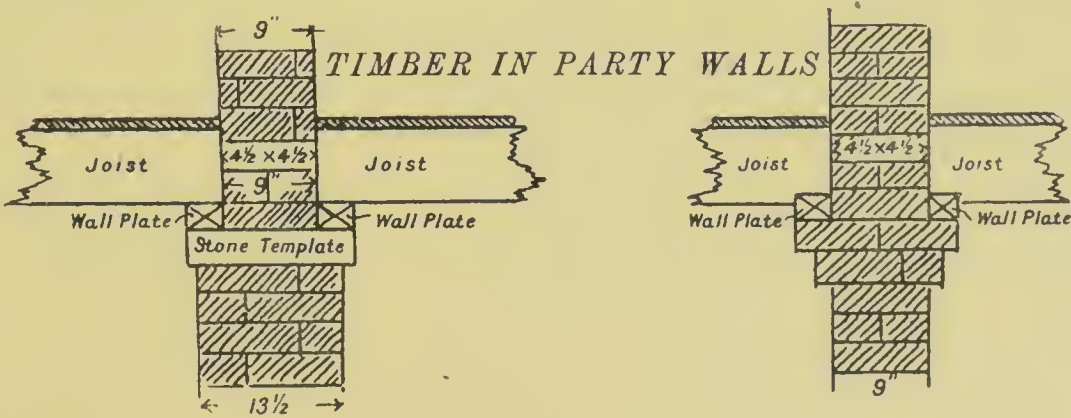


Fig. 17



BYELAW 34.

Fig. 18



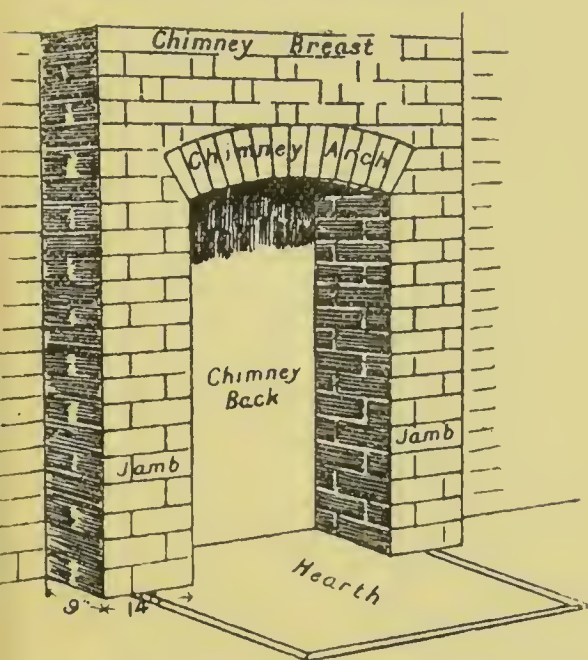
Showing ends of Joists
on a $13\frac{1}{2}$ in. Wall.

Showing ends of Joists in a
9 in Wall. (First par. of clause).

BYELAW 39 et seq.

Fig. 19

Showing parts of a chimney.



BYELAW 40 & 42.

Fig. 20

CHIMNEYS.

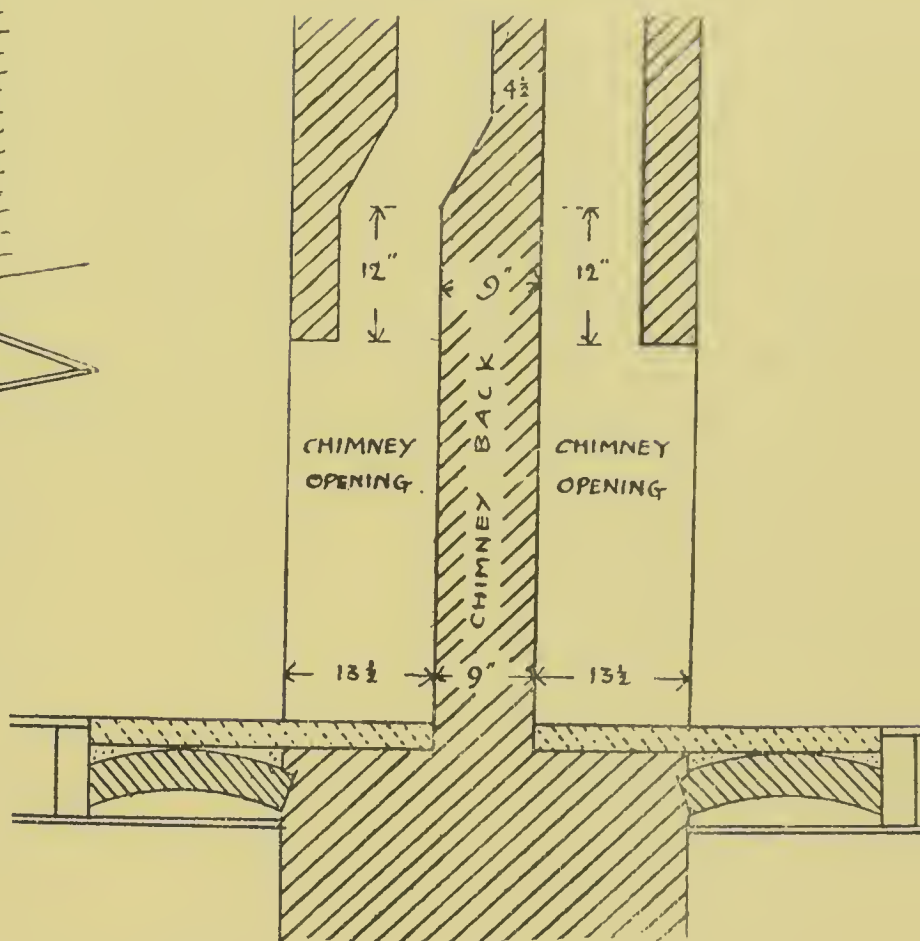
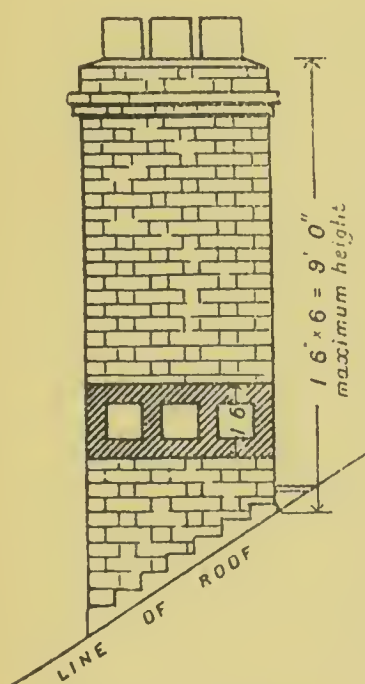
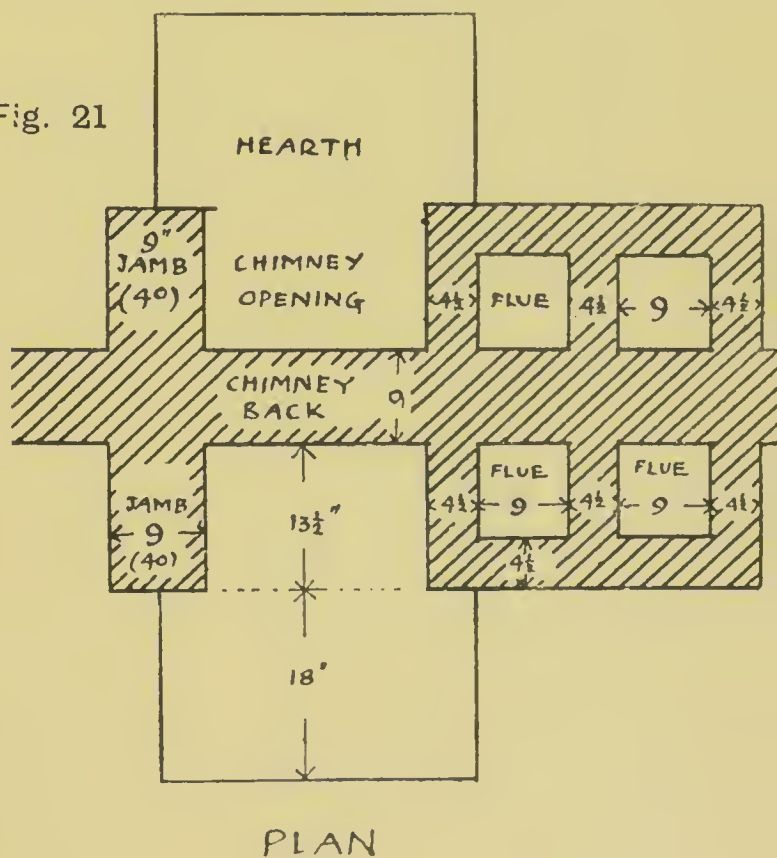


Fig. 21



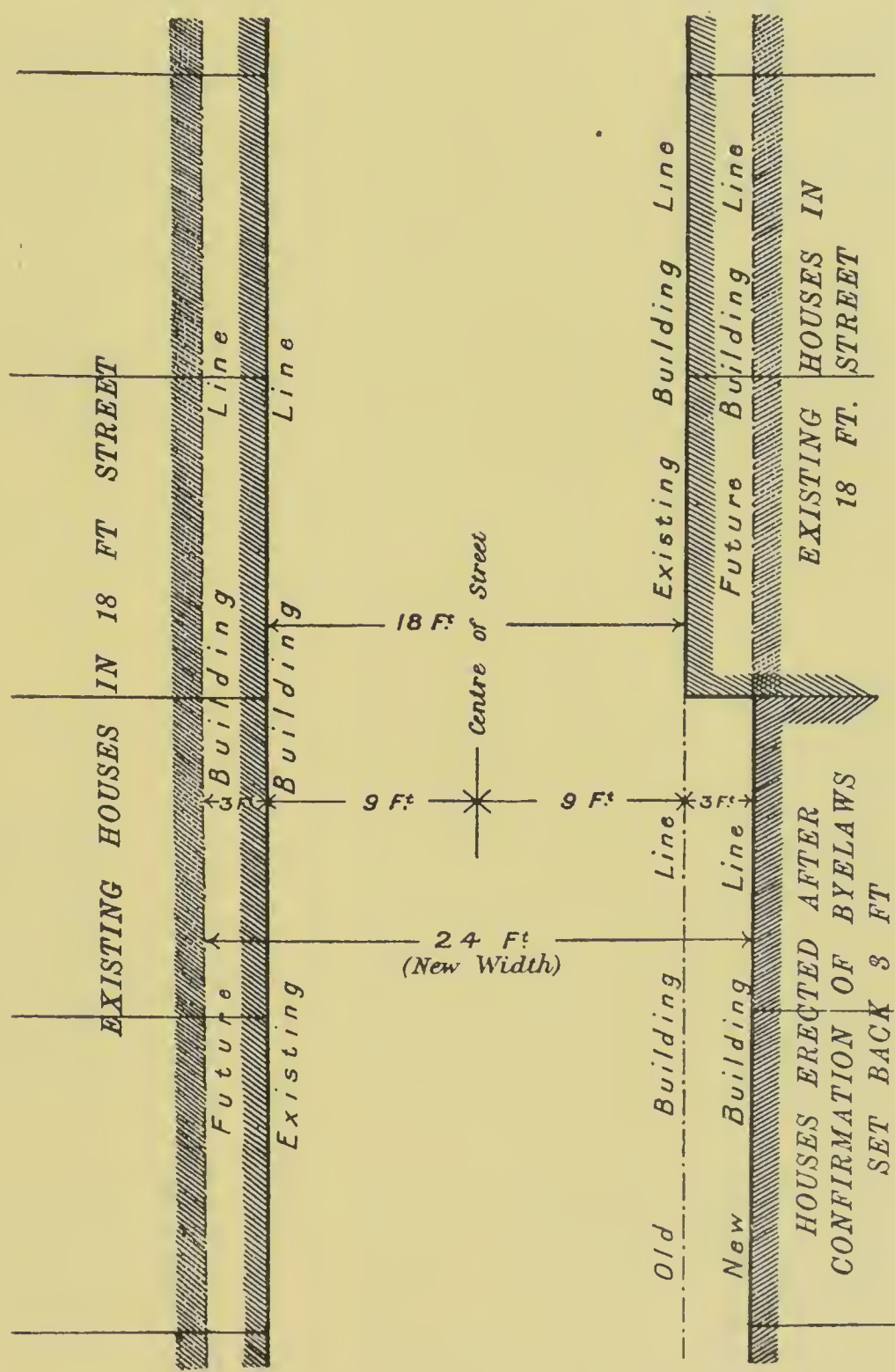
BYELAW 45.

Fig. 22

HEIGHT ABOVE ROOF.

Fig. 23

OPEN SPACE IN FRONT OF DOMESTIC BUILDINGS



OPEN SPACE AT REAR OF DOMESTIC BUILDINGS
NOT BEING STABLES.

Fig. 24

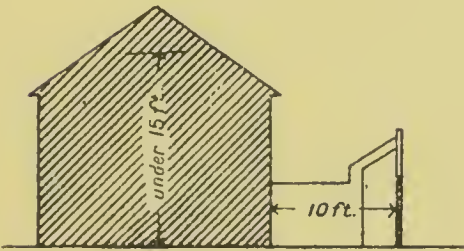


Fig. 25

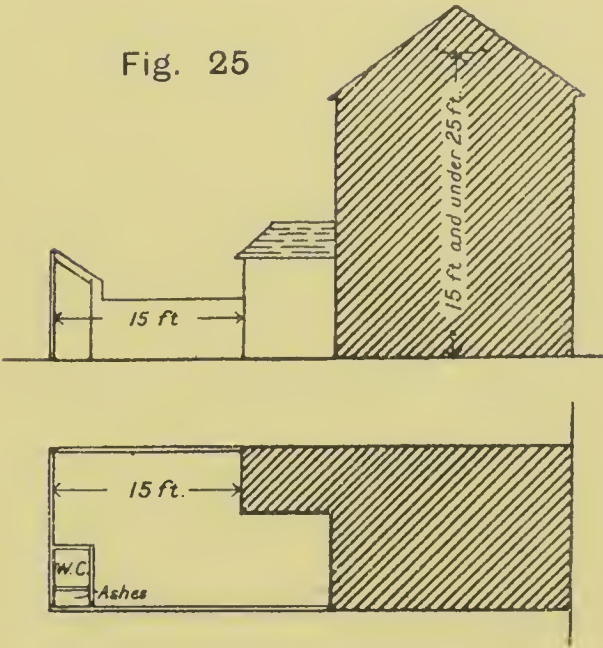


Diagram shewing minimum
yard space permitted under
Byelaw 53 (1).

Fig. 26

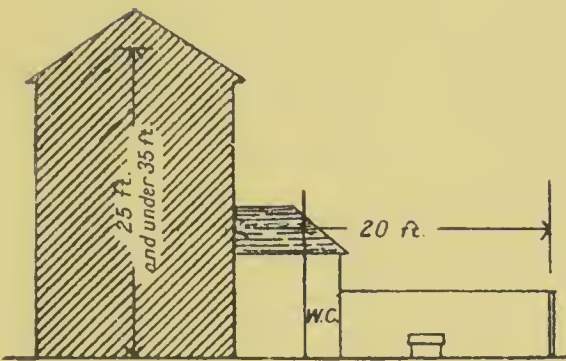


Fig. 27

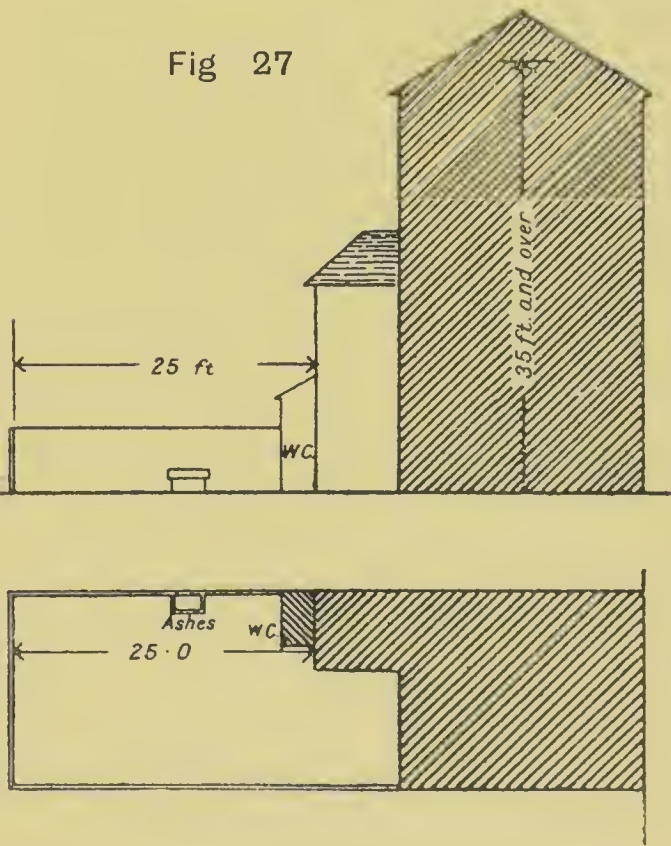
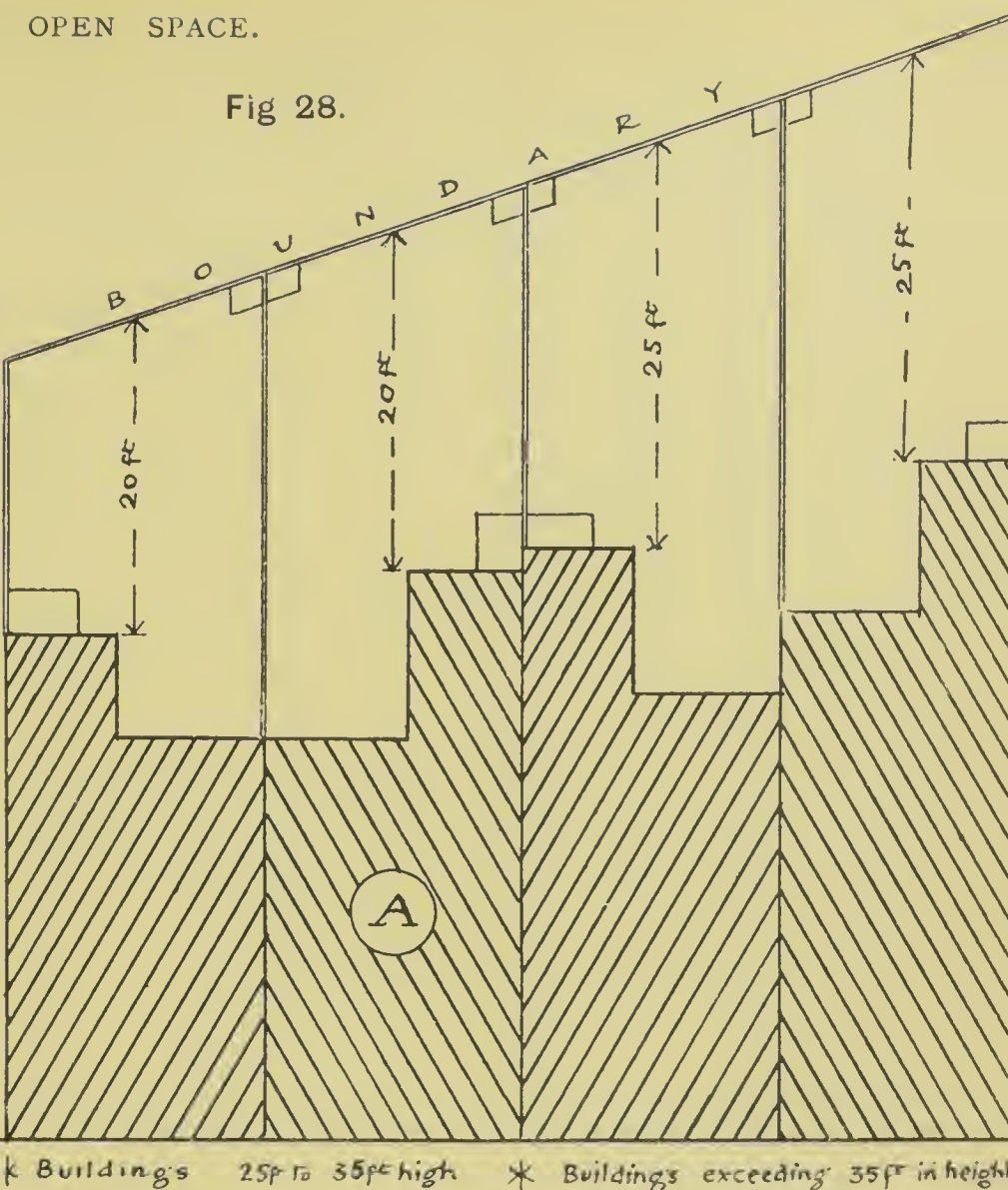


Fig 28.

(A) Site of exceptional shape. 53 (i) (6th par.)

(B) Site abutting on two or more streets. 53 proviso (i).

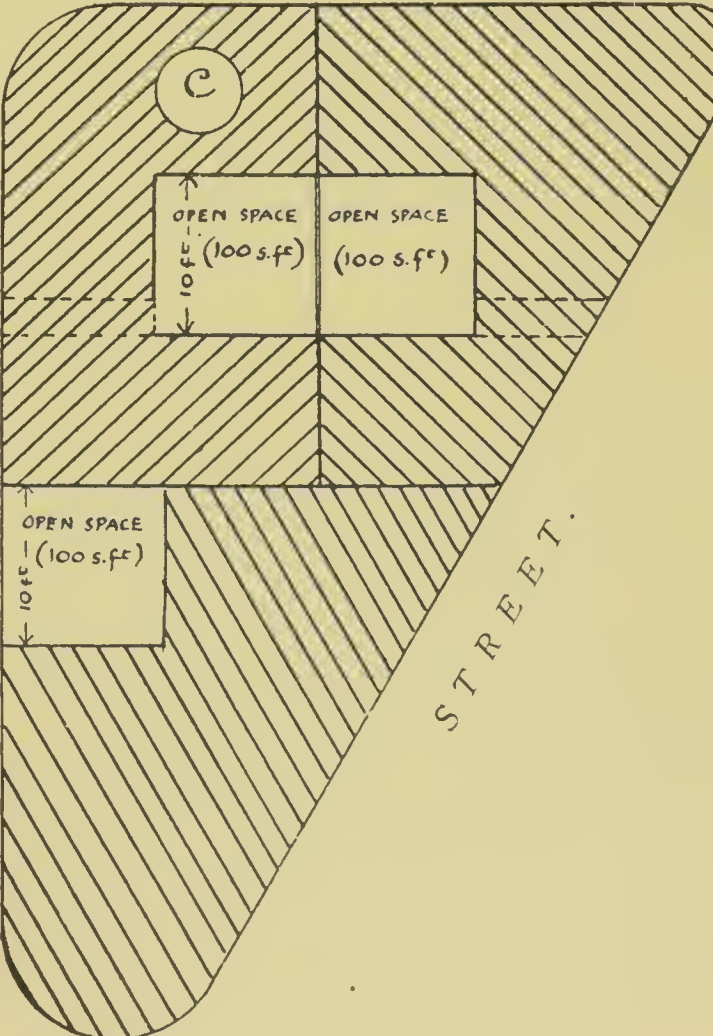
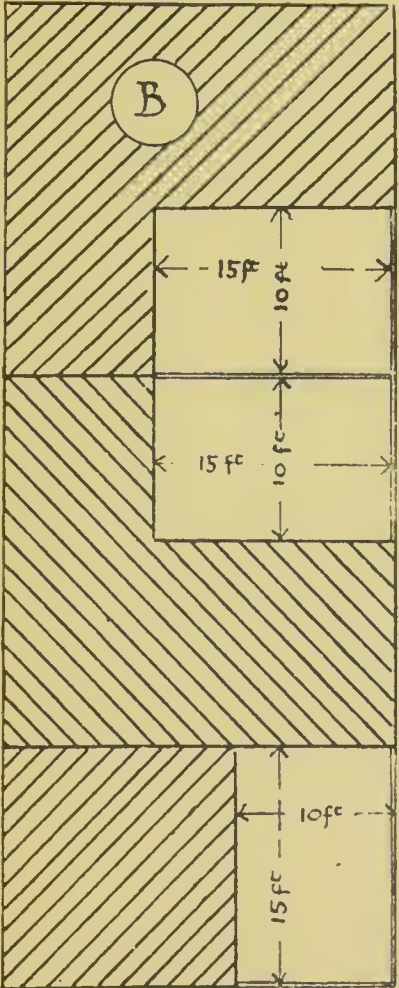
(C) Re-erection on existing site. Proviso (ii).



STREET.

Fig. 30

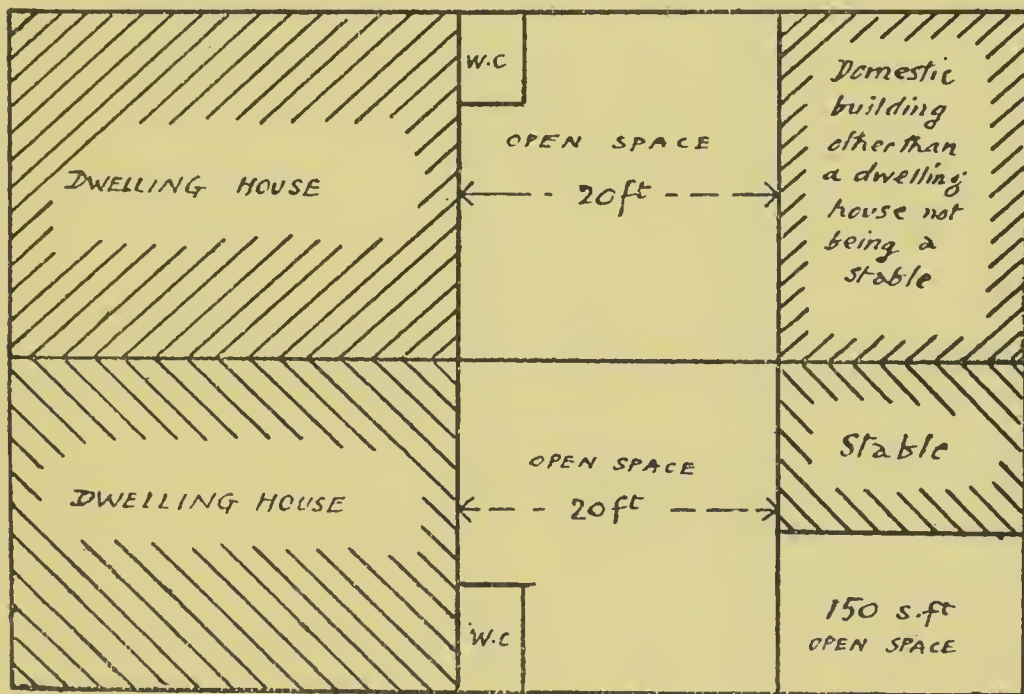
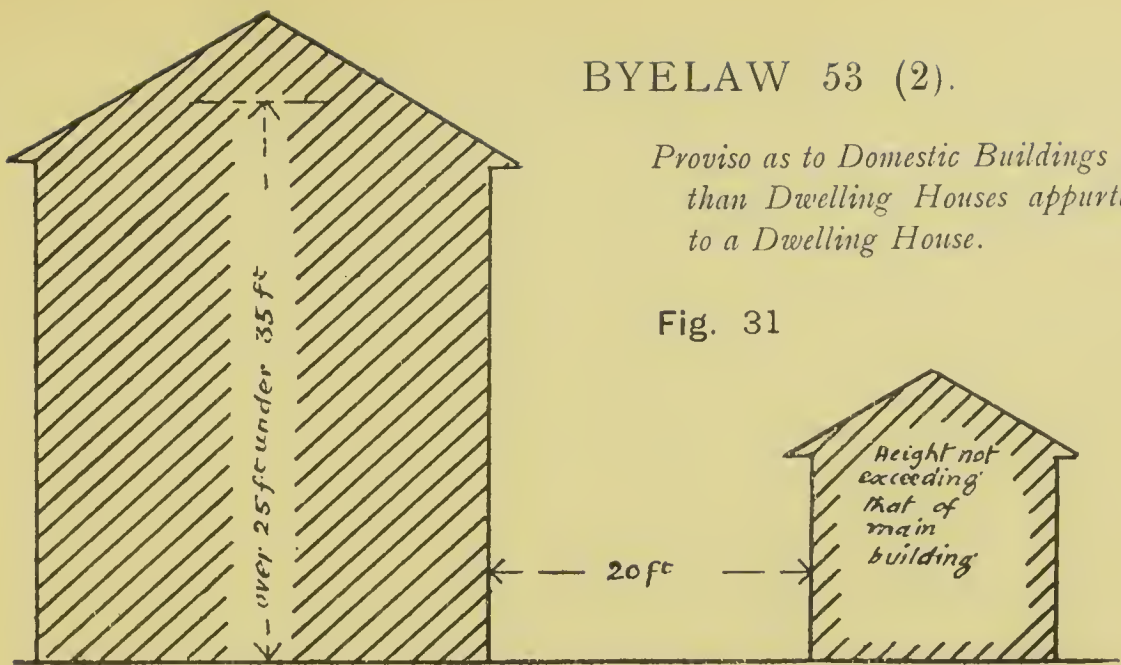
Fig 29.



BYELAW 53 (2).

Proviso as to Domestic Buildings other than Dwelling Houses appurtenant to a Dwelling House.

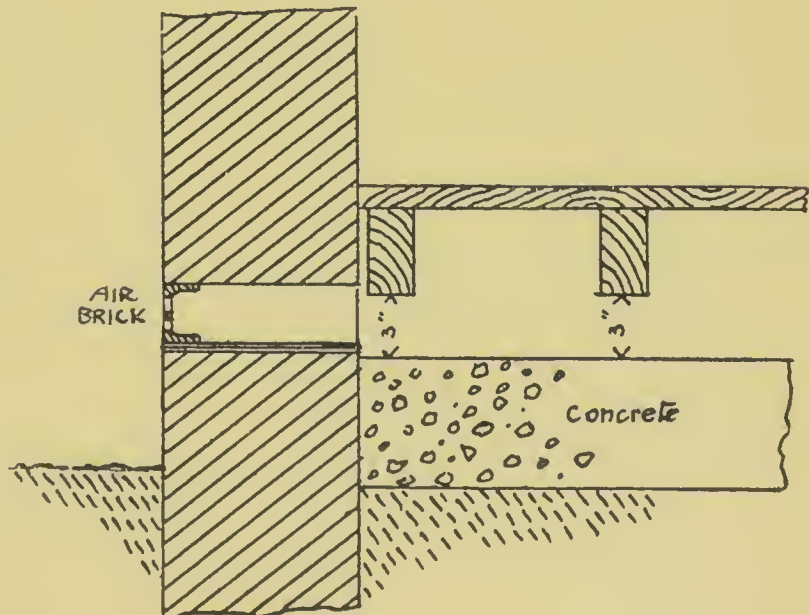
Fig. 31



BYELAW 55.

Ventilating Space beneath boarded floor of Domestic Buildings.

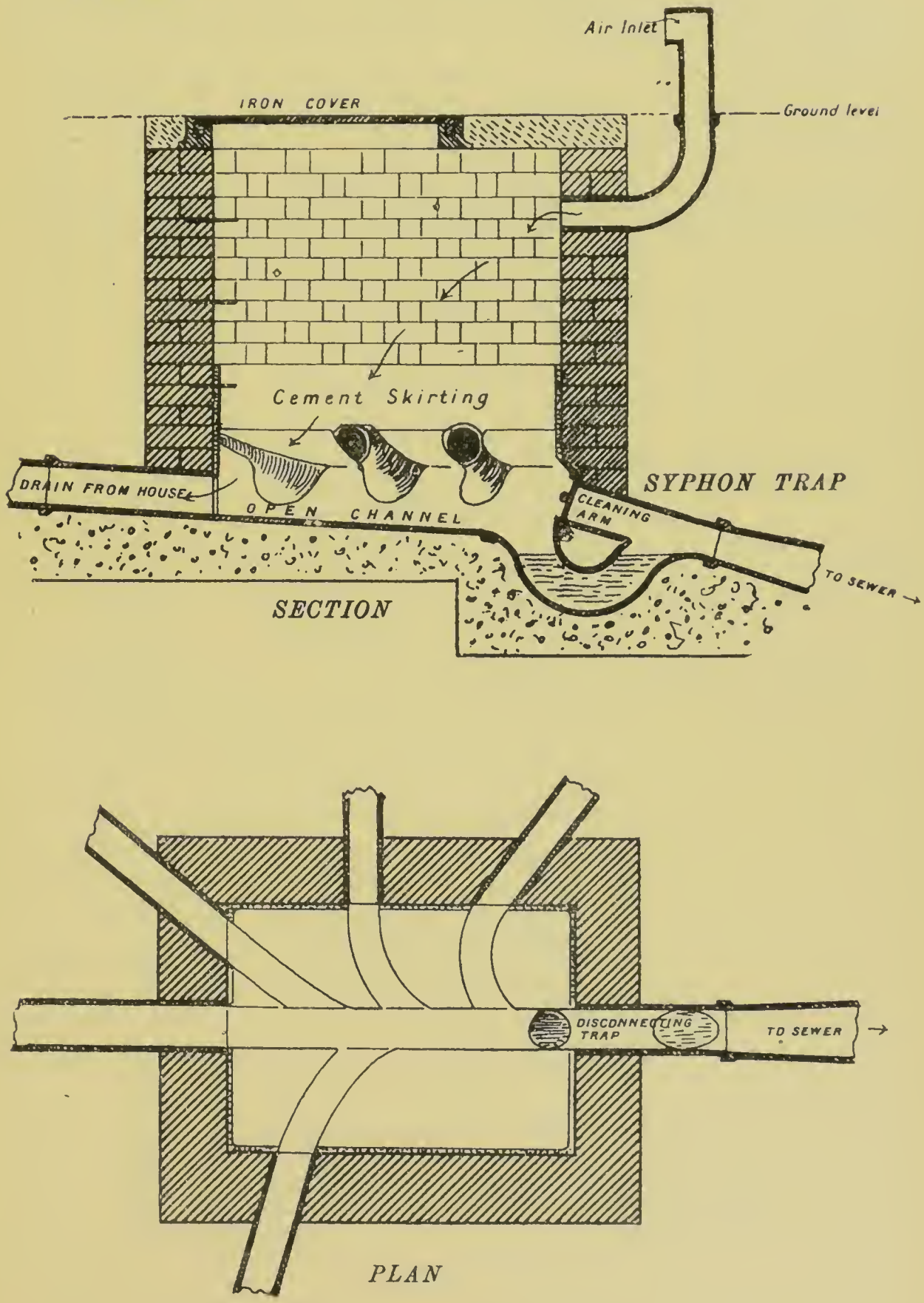
Fig. 32



MANHOLE OR INSPECTION CHAMBER.

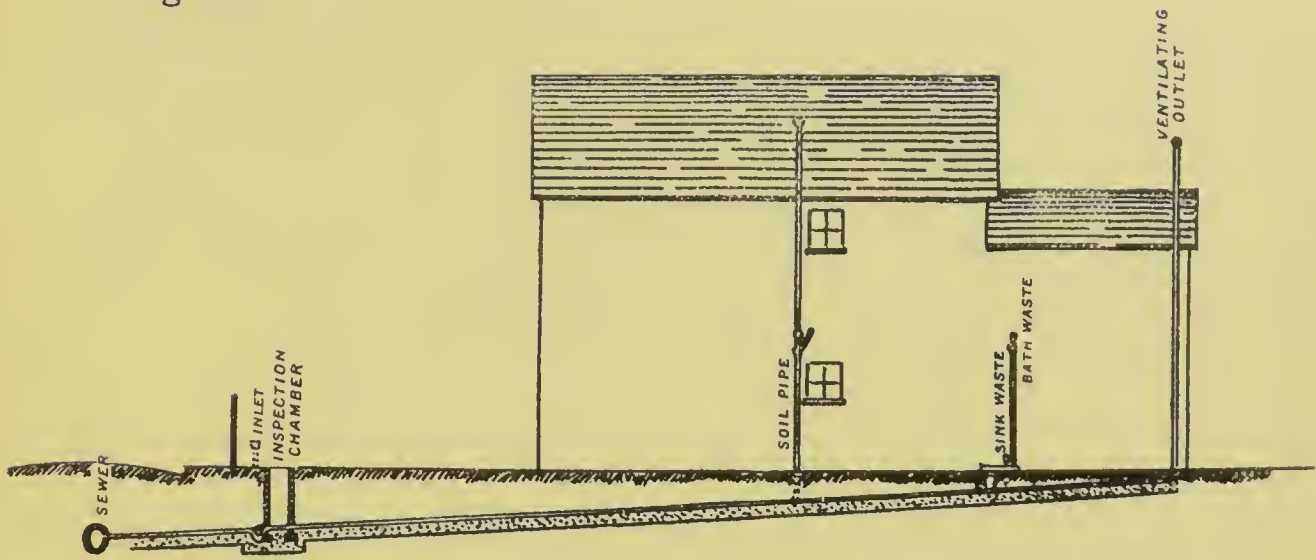
With Syphon Trap.

Fig. 33

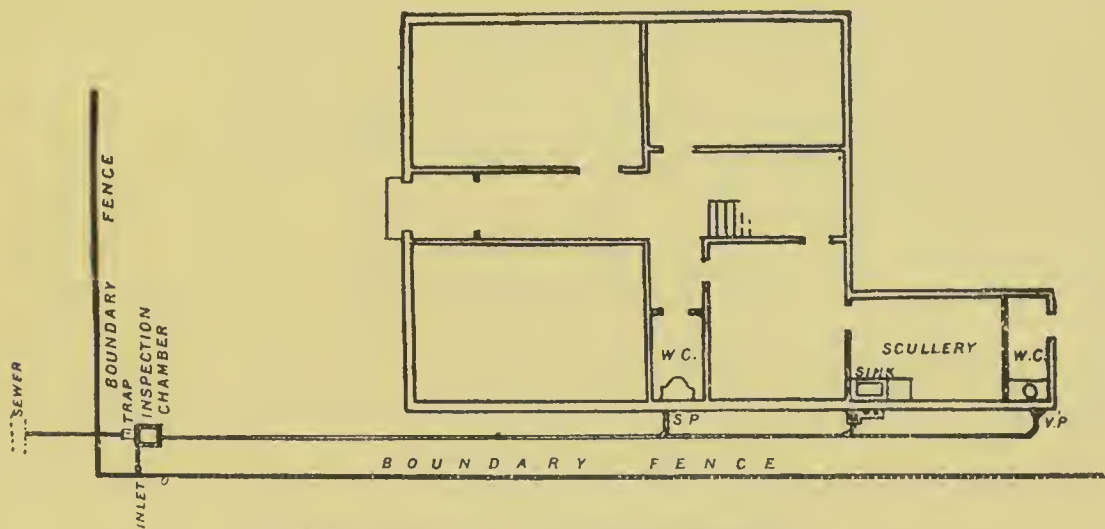


VENTILATION OF DRAINS.

Fig. 34

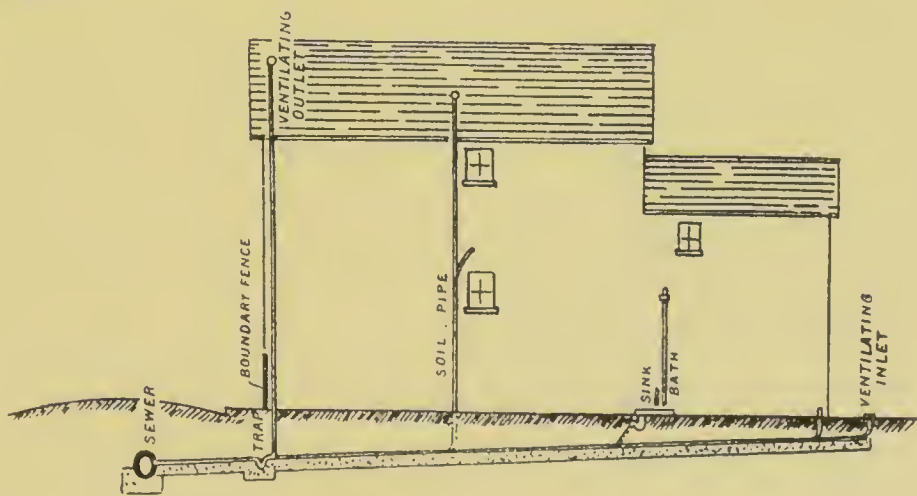


Section illustrating ordinary arrangement.



Plan illustrating ordinary arrangement.

Fig. 35



Section illustrating alternative arrangement.

BYELAWS 70, 71 & 72.

EARTHCLOSETS.

Fig. 36

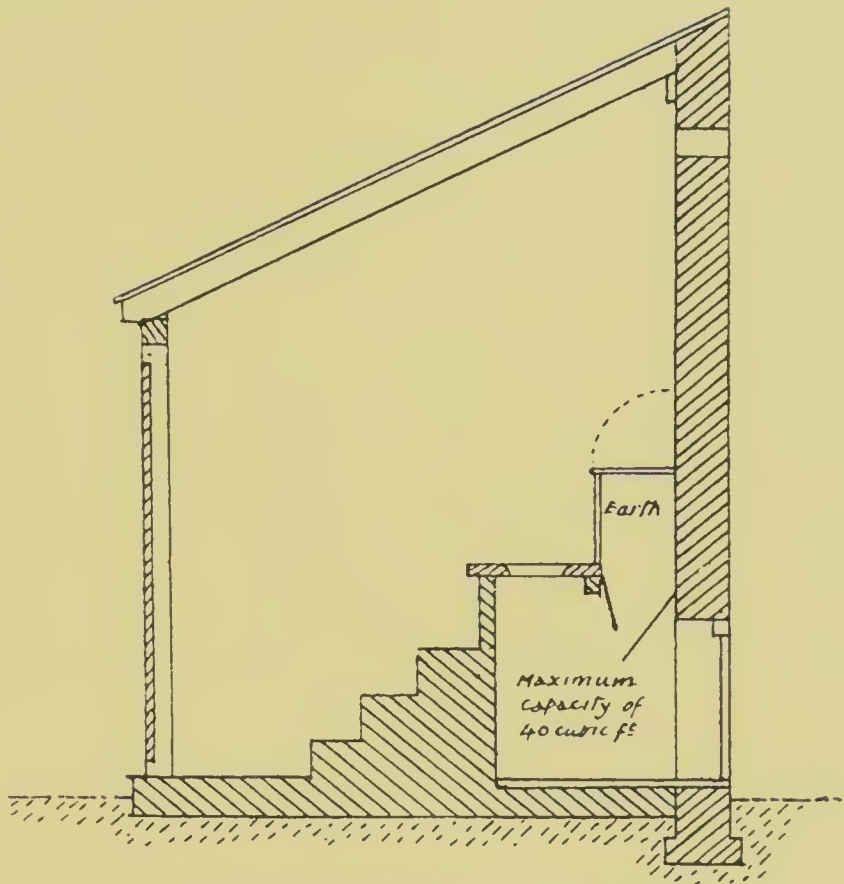
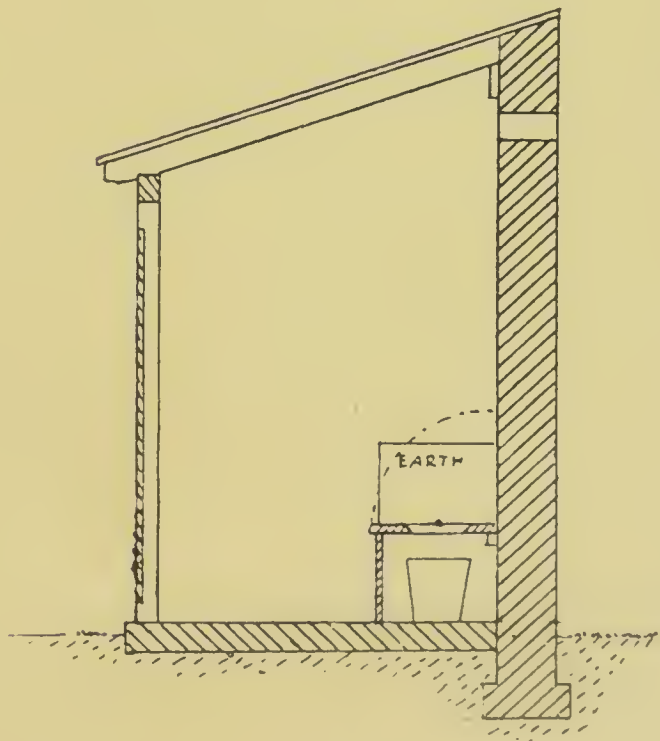
*Earthcloset with fixed receptacle.*

Fig. 37

*Earthcloset with movable receptacle.*

